

115TH CONGRESS
2D SESSION

S. 2526

To amend the Internal Revenue Code of 1986 to encourage retirement savings, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2018

Mr. HATCH (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to encourage retirement savings, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Retirement Enhancement and Savings Act of 2018”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—EXPANDING AND PRESERVING RETIREMENT SAVINGS

Sec. 101. Multiple employer plans.

Sec. 102. Pooled employer and multiple employer plan reporting.

- Sec. 103. Removal of 10 percent cap from automatic enrollment safe harbor after 1st plan year.
- Sec. 104. Rules relating to election of safe harbor 401(k) status.
- Sec. 105. Increase in credit limitation for small employer pension plan startup costs.
- Sec. 106. Small employer automatic enrollment credit.
- Sec. 107. Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes.
- Sec. 108. Repeal of maximum age for traditional IRA contributions.
- Sec. 109. Expansion of IRA ownership of S corporation bank stock.
- Sec. 110. Qualified employer plans prohibited from making loans through credit cards and other similar arrangements.
- Sec. 111. Portability of lifetime income options.
- Sec. 112. Treatment of custodial accounts on termination of section 403(b) plans.
- Sec. 113. Clarification of retirement income account rules relating to church-controlled organizations.

TITLE II—ADMINISTRATIVE IMPROVEMENTS

- Sec. 201. Plan adopted by filing due date for year may be treated as in effect as of close of year.
- Sec. 202. Combined annual report for group of plans.
- Sec. 203. Disclosure regarding lifetime income.
- Sec. 204. Fiduciary safe harbor for selection of lifetime income provider.
- Sec. 205. Modification of nondiscrimination rules to protect older, longer service participants.
- Sec. 206. Modification of PBGC premiums for CSEC plans.

TITLE III—BENEFITS RELATING TO UNITED STATES TAX COURT

- Sec. 301. Thrift Savings Plan contributions for judges in the Federal Employees Retirement System.
- Sec. 302. Change in vesting period for survivor annuities and waiver of vesting period in the event of assassination.
- Sec. 303. Coordination of retirement and survivor annuity with the Federal Employees Retirement System.
- Sec. 304. Limit on teaching compensation of retired judges.
- Sec. 305. General provisions relating to magistrate judges of the Tax Court.
- Sec. 306. Life insurance for magistrate judges of the tax court age 65 or older.
- Sec. 307. Retirement and annuity program.
- Sec. 308. Provisions for recall.

TITLE IV—OTHER BENEFITS

- Sec. 401. Benefits provided to volunteer firefighters and emergency medical responders.

TITLE V—REVENUE PROVISIONS

- Sec. 501. Modifications of required distribution rules for pension plans.
- Sec. 502. Increase in penalty for failure to file.
- Sec. 503. Increased penalties for failure to file retirement plan returns.
- Sec. 504. Increase information sharing to administer excise taxes.
- Sec. 505. Pension variable rate premium payment acceleration.

1 **TITLE I—EXPANDING AND PRE-**
2 **SERVING RETIREMENT SAV-**
3 **INGS**

4 **SEC. 101. MULTIPLE EMPLOYER PLANS.**

5 (a) QUALIFICATION REQUIREMENTS.—

6 (1) IN GENERAL.—Section 413 of the Internal
7 Revenue Code of 1986 is amended by adding at the
8 end the following new subsection:

9 “(e) APPLICATION OF QUALIFICATION REQUIRE-
10 MENTS FOR CERTAIN MULTIPLE EMPLOYER PLANS WITH
11 POOLED PLAN PROVIDERS.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), if a defined contribution plan to which
14 subsection (c) applies—

15 “(A) is sponsored by employers all of
16 which have both a common interest other than
17 having adopted the plan and control of the
18 plan, or

19 “(B) in the case of a plan not described in
20 subparagraph (A), has a pooled plan provider,
21 then the plan shall not be treated as failing to meet
22 the requirements under this title applicable to a plan
23 described in section 401(a) or to a plan that consists
24 of individual retirement accounts described in sec-
25 tion 408 (including by reason of subsection (c)

thereof), whichever is applicable, merely because one or more employers of employees covered by the plan fail to take such actions as are required of such employers for the plan to meet such requirements.

“(2) LIMITATIONS.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to any plan unless the terms of the plan provide that in cases of employers failing to take the actions described in paragraph (1)—

“(i) the assets of the plan attributable to employees of the employer will be transferred to a plan maintained only by the employer (or its successor), to an eligible retirement plan as defined in section 402(c)(8)(B) for each individual whose account is transferred, or to any other arrangement that the Secretary determines is appropriate, unless the Secretary determines it is in the best interests of such employees to retain the assets in the plan, and

“(ii) the employer described in clause (i) (and not the plan with respect to which the failure occurred or any other partici-

1 pating employer in such plan) shall, except
2 to the extent provided by the Secretary, be
3 liable for any liabilities with respect to
4 such plan attributable to employees of the
5 employer.

6 “(B) FAILURES BY POOLED PLAN PRO-
7 VIDERS.—If the pooled plan provider of a plan
8 described in paragraph (1)(B) does not perform
9 substantially all of the administrative duties
10 which are required of the provider under para-
11 graph (3)(A)(i) for any plan year, the Sec-
12 retary, in the Secretary’s own discretion, may
13 provide that the determination as to whether
14 the plan meets the requirements under this title
15 applicable to a plan described in section 401(a)
16 or to a plan that consists of individual retire-
17 ment accounts described in section 408 (includ-
18 ing by reason of subsection (c) thereof), which-
19 ever is applicable, shall be made in the same
20 manner as would be made without regard to
21 paragraph (1).

22 “(3) POOLED PLAN PROVIDER.—For purposes
23 of this subsection—

1 “(A) IN GENERAL.—The term ‘pooled plan
2 provider’ means, with respect to any plan, a
3 person who—

4 “(i) is designated by the terms of the
5 plan as a named fiduciary (within the
6 meaning of section 402(a)(2) of the Em-
7 ployee Retirement Income Security Act of
8 1974), as the plan administrator, and as
9 the person responsible to perform all ad-
10 ministrative duties (including conducting
11 proper testing with respect to the plan and
12 employees of each participating employer)
13 which are reasonably necessary to ensure
14 that—

15 “(I) the plan meets any require-
16 ment applicable under the Employee
17 Retirement Income Security Act of
18 1974 or this title to a plan described
19 in section 401(a) or to a plan that
20 consists of individual retirement ac-
21 counts described in section 408 (in-
22 cluding by reason of subsection (c)
23 thereof), whichever is applicable, and

24 “(II) each participating employer
25 takes such actions as the Secretary or

1 such person determines are necessary
2 for the plan to meet the requirements
3 described in subclause (I), including
4 providing to such person any disclo-
5 sures or other information which the
6 Secretary may require or which such
7 person otherwise determines is nec-
8 essary to administer the plan or to
9 allow the plan to meet such require-
10 ments,

11 “(ii) registers as a pooled plan pro-
12 vider with the Secretary, and provides such
13 other information to the Secretary as the
14 Secretary may require, before beginning
15 operations as a pooled plan provider,

16 “(iii) acknowledges in writing that
17 such person is a named fiduciary (within
18 the meaning of section 402(a)(2) of the
19 Employee Retirement Income Security Act
20 of 1974), and the plan administrator, with
21 respect to the plan, and

22 “(iv) is responsible for ensuring that
23 all persons who handle assets of, or who
24 are fiduciaries of, the plan are bonded in
25 accordance with section 412 of the Em-

1 employee Retirement Income Security Act of
2 1974.

3 “(B) AUDITS, EXAMINATIONS AND INVES-
4 TIGATIONS.—The Secretary may perform au-
5 dits, examinations, and investigations of pooled
6 plan providers as may be necessary to enforce
7 and carry out the purposes of this subsection.

8 “(4) GUIDANCE.—

9 “(A) IN GENERAL.—The Secretary shall
10 issue such guidance as the Secretary determines
11 appropriate to carry out this subsection, includ-
12 ing guidance—

13 “(i) to identify the administrative du-
14 ties and other actions required to be per-
15 formed by a pooled plan provider under
16 this subsection,

17 “(ii) which describes the procedures to
18 be taken to terminate a plan which fails to
19 meet the requirements to be a plan de-
20 scribed in paragraph (1), including the
21 proper treatment of, and actions needed to
22 be taken by, any participating employer of
23 the plan and the assets and liabilities of
24 the plan with respect to employees of that
25 employer, and

1 “(iii) identifying appropriate cases to
2 which the rules of paragraph (2)(A) will
3 apply to employers failing to take the ac-
4 tions described in paragraph (1).

5 The Secretary shall take into account under
6 clause (iii) whether the failure of an employer
7 or pooled plan provider to provide any disclo-
8 sures or other information, or to take any other
9 action, necessary to administer a plan or to
10 allow a plan to meet requirements applicable to
11 the plan under section 401(a) or 408, whichever
12 is applicable, has continued over a period of
13 time that clearly demonstrates a lack of com-
14 mitment to compliance.

15 “(B) PROSPECTIVE APPLICATION.—Any
16 guidance issued by the Secretary under this
17 paragraph shall not apply to any action or fail-
18 ure occurring before the issuance of such guid-
19 ance.

20 “(5) MODEL PLAN.—The Secretary shall, in
21 consultation with the Secretary of Labor when ap-
22 propriate, publish model plan language which meets
23 the requirements of this subsection and of para-
24 graphs (43) and (44) of section 3 of the Employee
25 Retirement Income Security Act of 1974 and which

1 may be adopted in order for a plan to be treated as
 2 a plan described in paragraph (1)(B).”.

3 (2) CONFORMING AMENDMENT.—Paragraph (3)
 4 of section 413(b) of such Code is amended by strik-
 5 ing “section 401(a)” and inserting “sections 401(a)
 6 and 408(c)”.

7 (3) TECHNICAL AMENDMENT.—Subsection (c)
 8 of section 408 of such Code is amended by inserting
 9 after paragraph (2) the following new paragraph:

10 “(3) There is a separate accounting for any in-
 11 terest of an employee or member (or spouse of an
 12 employee or member) in a Roth IRA.”.

13 (b) NO COMMON INTEREST REQUIRED FOR POOLED
 14 EMPLOYER PLANS.—Section 3(2) of the Employee Retire-
 15 ment Income Security Act of 1974 (29 U.S.C. 1002(2))
 16 is amended by adding at the end the following:

17 “(C) A pooled employer plan shall be treat-
 18 ed as—

19 “(i) a single employee pension benefit
 20 plan or single pension plan; and

21 “(ii) a plan to which section 210(a)
 22 applies.”.

23 (c) POOLED EMPLOYER PLAN AND PROVIDER DE-
 24 FINED.—

1 (1) IN GENERAL.—Section 3 of the Employee
2 Retirement Income Security Act of 1974 (29 U.S.C.
3 1002) is amended by adding at the end the fol-
4 lowing:

5 “(43) POOLED EMPLOYER PLAN.—

6 “(A) IN GENERAL.—The term ‘pooled em-
7 ployer plan’ means a plan—

8 “(i) which is an individual account
9 plan established or maintained for the pur-
10 pose of providing benefits to the employees
11 of two or more employers;

12 “(ii) which is a plan described in sec-
13 tion 401(a) of the Internal Revenue Code
14 of 1986 which includes a trust exempt
15 from tax under section 501(a) of such
16 Code or a plan that consists of individual
17 retirement accounts described in section
18 408 of such Code (including by reason of
19 subsection (c) thereof); and

20 “(iii) the terms of which meet the re-
21 quirements of subparagraph (B).

22 Such term shall not include a plan with respect
23 to which all of the participating employers have
24 both a common interest other than having
25 adopted the plan and control of the plan.

1 “(B) REQUIREMENTS FOR PLAN TERMS.—

2 The requirements of this subparagraph are met
3 with respect to any plan if the terms of the
4 plan—

5 “(i) designate a pooled plan provider
6 and provide that the pooled plan provider
7 is a named fiduciary of the plan;

8 “(ii) designate one or more trustees
9 meeting the requirements of section
10 408(a)(2) of the Internal Revenue Code of
11 1986 (other than a participating employer)
12 to be responsible for collecting contribu-
13 tions to, and holding the assets of, the
14 plan and require such trustees to imple-
15 ment written contribution collection proce-
16 dures that are reasonable, diligent, and
17 systematic;

18 “(iii) provide that each participating
19 employer retains fiduciary responsibility
20 for—

21 “(I) the selection and monitoring
22 in accordance with section 404(a) of
23 the person designated as the pooled
24 plan provider and any other person
25 who, in addition to the pooled plan

1 provider, is designated as a named fi-
2 duciary of the plan; and

3 “(II) to the extent not otherwise
4 delegated to another fiduciary by the
5 pooled plan provider and subject to
6 the provisions of section 404(c), the
7 investment and management of that
8 portion of the plan’s assets attrib-
9 utable to the employees of that par-
10 ticipating employer;

11 “(iv) provide that a participating em-
12 ployer, or a participant or beneficiary, is
13 not subject to unreasonable restrictions,
14 fees, or penalties with regard to ceasing
15 participation, receipt of distributions, or
16 otherwise transferring assets of the plan in
17 accordance with section 208 or paragraph
18 (44)(C)(i)(II);

19 “(v) require—

20 “(I) the pooled plan provider to
21 provide to participating employers any
22 disclosures or other information which
23 the Secretary may require, including
24 any disclosures or other information
25 to facilitate the selection or any moni-

1 toring of the pooled plan provider by
2 participating employers; and

3 “(II) each participating employer
4 to take such actions as the Secretary
5 or the pooled plan provider determines
6 are necessary to administer the plan
7 or for the plan to meet any require-
8 ment applicable under this Act or the
9 Internal Revenue Code of 1986 to a
10 plan described in section 401(a) of
11 such Code or to a plan that consists
12 of individual retirement accounts de-
13 scribed in section 408 of such Code
14 (including by reason of subsection (c)
15 thereof), whichever is applicable, in-
16 cluding providing any disclosures or
17 other information which the Secretary
18 may require or which the pooled plan
19 provider otherwise determines is nec-
20 essary to administer the plan or to
21 allow the plan to meet such require-
22 ments; and

23 “(vi) provide that any disclosure or
24 other information required to be provided
25 under clause (v) may be provided in elec-

tronic form and will be designed to ensure only reasonable costs are imposed on pooled plan providers and participating employers.

“(C) EXCEPTIONS.—The term ‘pooled employer plan’ does not include—

“(i) a multiemployer plan; or

“(ii) a plan established before the date of the enactment of the Retirement Enhancement and Savings Act of 2018, unless the plan administrator elects that the plan will be treated as a pooled employer plan and the plan meets the requirements of this title applicable to a pooled employer plan established on or after such date.

“(44) POOLED PLAN PROVIDER.—

“(A) IN GENERAL.—The term ‘pooled plan provider’ means a person who—

“(i) is designated by the terms of a pooled employer plan as a named fiduciary, as the plan administrator, and as the person responsible for the performance of all administrative duties (including conducting proper testing with respect to the plan and

1 employees of each participating employer)
2 which are reasonably necessary to ensure
3 that—

4 “(I) the plan meets any require-
5 ment applicable under this Act or the
6 Internal Revenue Code of 1986 to a
7 plan described in section 401(a) of
8 such Code or to a plan that consists
9 of individual retirement accounts de-
10 scribed in section 408 of such Code
11 (including by reason of subsection (c)
12 thereof), whichever is applicable; and

13 “(II) each participating employer
14 takes such actions as the Secretary or
15 pooled plan provider determines are
16 necessary for the plan to meet the re-
17 quirements described in subclause (I),
18 including providing the disclosures
19 and information described in para-
20 graph (43)(B)(v)(II);

21 “(ii) registers as a pooled plan pro-
22 vider with the Secretary, and provides to
23 the Secretary such other information as
24 the Secretary may require, before begin-
25 ning operations as a pooled plan provider;

1 “(iii) acknowledges in writing that
 2 such person is a named fiduciary, and the
 3 plan administrator, with respect to the
 4 pooled employer plan; and

5 “(iv) is responsible for ensuring that
 6 all persons who handle assets of, or who
 7 are fiduciaries of, the pooled employer plan
 8 are bonded in accordance with section 412.

9 “(B) AUDITS, EXAMINATIONS AND INVE-
 10 TIGATIONS.—The Secretary may perform au-
 11 dits, examinations, and investigations of pooled
 12 plan providers as may be necessary to enforce
 13 and carry out the purposes of this paragraph
 14 and paragraph (43).

15 “(C) GUIDANCE.—

16 “(i) IN GENERAL.—The Secretary
 17 shall issue such guidance as the Secretary
 18 determines appropriate to carry out this
 19 paragraph and paragraph (43), including
 20 guidance—

21 “(I) to identify the administra-
 22 tive duties and other actions required
 23 to be performed by a pooled plan pro-
 24 vider under either such paragraph;
 25 and

1 “(II) which requires in appro-
2 priate cases that if a participating
3 employer fails to take the actions re-
4 quired under subparagraph
5 (A)(i)(II)—

6 “(aa) the assets of the plan
7 attributable to employees of the
8 participating employer are trans-
9 ferred to a plan maintained only
10 by the participating employer (or
11 its successor), to an eligible re-
12 tirement plan as defined in sec-
13 tion 402(c)(8)(B) of the Internal
14 Revenue Code of 1986 for each
15 individual whose account is
16 transferred, or to any other ar-
17 rangement that the Secretary de-
18 termines is appropriate in such
19 guidance; and

20 “(bb) the participating em-
21 ployer described in item (aa)
22 (and not the plan with respect to
23 which the failure occurred or any
24 other participating employer in
25 such plan) shall, except to the ex-

1 tent provided in such guidance,
2 be liable for any liabilities with
3 respect to such plan attributable
4 to employees of the participating
5 employer.

6 The Secretary shall take into account
7 under subclause (II) whether the failure of
8 an employer or pooled plan provider to
9 provide any disclosures or other informa-
10 tion, or to take any other action, necessary
11 to administer a plan or to allow a plan to
12 meet requirements described in subpara-
13 graph (A)(i)(II) has continued over a pe-
14 riod of time that clearly demonstrates a
15 lack of commitment to compliance. The
16 Secretary may waive the requirements of
17 subclause (II)(aa) in appropriate cir-
18 cumstances if the Secretary determines it
19 is in the best interests of the employees of
20 the participating employer described in
21 such clause to retain the assets in the plan
22 with respect to which the employer's fail-
23 ure occurred.

24 “(ii) PROSPECTIVE APPLICATION.—
25 Any guidance issued by the Secretary

under this subparagraph shall not apply to any action or failure occurring before the issuance of such guidance.

“(D) AGGREGATION RULES.—For purposes of this paragraph—

“(i) IN GENERAL.—In determining whether a person meets the requirements of this paragraph to be a pooled plan provider with respect to any plan, all persons who are members of the same controlled group and who perform services for the plan shall be treated as one person.

“(ii) MEMBERS OF COMMON GROUP.—Persons shall be treated as members of the same controlled group if such persons are treated as a single employer under subsection (c) or (d) of section 210.”.

(2) BONDING REQUIREMENTS FOR POOLED EMPLOYER PLANS.—The last sentence of section 412(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1112(a)) is amended by inserting “or in the case of a pooled employer plan (as defined in section 3(43))” after “section 407(d)(1))”.

(3) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C. 1002) is
2 amended—

3 (A) in paragraph (16)(B)—

4 (i) by striking “or” at the end of
5 clause (ii); and

6 (ii) by striking the period at the end
7 and inserting “, or (iv) in the case of a
8 pooled employer plan, the pooled plan pro-
9 vider.”; and

10 (B) by striking the second paragraph (41).

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall apply to years beginning after De-
14 cember 31, 2021.

15 (2) RULE OF CONSTRUCTION.—Nothing in the
16 amendments made by subsection (a) shall be con-
17 strued as limiting the authority of the Secretary of
18 the Treasury or the Secretary’s delegate (determined
19 without regard to such amendment) to provide for
20 the proper treatment of a failure to meet any re-
21 quirement applicable under the Internal Revenue
22 Code of 1986 with respect to one employer (and its
23 employees) in a multiple employer plan.

1 **SEC. 102. POOLED EMPLOYER AND MULTIPLE EMPLOYER**
 2 **PLAN REPORTING.**

3 (a) **ADDITIONAL INFORMATION.**—Section 103 of the
 4 Employee Retirement Income Security Act of 1974 (29
 5 U.S.C. 1023) is amended—

6 (1) in subsection (a)(1)(B), by striking “appli-
 7 cable subsections (d), (e), and (f)” and inserting
 8 “applicable subsections (d), (e), (f), and (g)”; and

9 (2) by amending subsection (g) to read as fol-
 10 lows:

11 “(g) **ADDITIONAL INFORMATION WITH RESPECT TO**
 12 **POOLED EMPLOYER AND MULTIPLE EMPLOYER**
 13 **PLANS.**—An annual report under this section for a plan
 14 year shall include—

15 “(1) with respect to any plan to which section
 16 210(a) applies (including a pooled employer plan), a
 17 list of participating employers and a good faith esti-
 18 mate of the percentage of total contributions made
 19 by such participating employers during the plan
 20 year; and

21 “(2) with respect to a pooled employer plan, the
 22 identifying information for the person designated
 23 under the terms of the plan as the pooled plan pro-
 24 vider.”.

25 (b) **SIMPLIFIED ANNUAL REPORTS.**—Section 104(a)
 26 of the Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1024(a)) is amended by striking paragraph
 2 (2)(A) and inserting the following:

3 “(2)(A) With respect to annual reports required
 4 to be filed with the Secretary under this part, the
 5 Secretary may by regulation prescribe simplified an-
 6 nual reports for any pension plan that—

7 “(i) covers fewer than 100 participants; or

8 “(ii) is a plan described in section 210(a)
 9 that covers fewer than 1,000 participants, but
 10 only if no single participating employer has 100
 11 or more participants covered by the plan.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to annual reports for plan years
 14 beginning after December 31, 2021.

15 **SEC. 103. REMOVAL OF 10 PERCENT CAP FROM AUTOMATIC**
 16 **ENROLLMENT SAFE HARBOR AFTER 1ST**
 17 **PLAN YEAR.**

18 (a) IN GENERAL.—Clause (iii) of section
 19 401(k)(13)(C) of the Internal Revenue Code of 1986 is
 20 amended by striking “, does not exceed 10 percent, and
 21 is at least” and inserting “and is”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subclause (I) of section 401(k)(13)(C)(iii)
 24 of the Internal Revenue Code of 1986 is amended by

1 striking “3 percent” and inserting “at least 3 per-
 2 cent, but not greater than 10 percent,”.

3 (2) Subclause (II) of section 401(k)(13)(C)(iii)
 4 of such Code is amended by striking “4 percent”
 5 and inserting “at least 4 percent”.

6 (3) Subclause (III) of section 401(k)(13)(C)(iii)
 7 of such Code is amended by striking “5 percent”
 8 and inserting “at least 5 percent”.

9 (4) Subclause (IV) of section 401(k)(13)(C)(iii)
 10 of such Code is amended by striking “6 percent”
 11 and inserting “at least 6 percent”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to plan years beginning after De-
 14 cember 31, 2018.

15 **SEC. 104. RULES RELATING TO ELECTION OF SAFE HARBOR**

16 **401(k) STATUS.**

17 (a) LIMITATION OF ANNUAL SAFE HARBOR NOTICE
 18 TO MATCHING CONTRIBUTION PLANS.—

19 (1) IN GENERAL.—Subparagraph (A) of section
 20 401(k)(12) of the Internal Revenue Code of 1986 is
 21 amended by striking “if such arrangement” and all
 22 that follows and inserting “if such arrangement—

23 “(i) meets the contribution require-
 24 ments of subparagraph (B) and the notice
 25 requirements of subparagraph (D), or

1 “(ii) meets the contribution require-
 2 ments of subparagraph (C).”.

3 (2) AUTOMATIC CONTRIBUTION ARRANGE-
 4 MENTS.—Subparagraph (B) of section 401(k)(13) of
 5 such Code is amended by striking “means” and all
 6 that follows and inserting “means a cash or deferred
 7 arrangement—

8 “(A) which is described in subparagraph
 9 (D)(i)(I) and meets the applicable requirements
 10 of subparagraphs (C) through (E), or

11 “(B) which is described in subparagraph
 12 (D)(i)(II) and meets the applicable require-
 13 ments of subparagraphs (C) and (D).”.

14 (b) NONELECTIVE CONTRIBUTIONS.—Section
 15 401(k)(12) of the Internal Revenue Code of 1986 is
 16 amended by redesignating subparagraph (F) as subpara-
 17 graph (G), and by inserting after subparagraph (E) the
 18 following new subparagraph:

19 “(F) TIMING OF PLAN AMENDMENT FOR
 20 EMPLOYER MAKING NONELECTIVE CONTRIBU-
 21 TIONS.—

22 “(i) IN GENERAL.—Except as pro-
 23 vided in clause (ii), a plan may be amend-
 24 ed after the beginning of a plan year to
 25 provide that the requirements of subpara-

graph (C) shall apply to the arrangement for the plan year, but only if the amendment is adopted—

“(I) at any time before the 30th day before the close of the plan year, or

“(II) at any time before the last day under paragraph (8)(A) for distributing excess contributions for the plan year.

“(ii) EXCEPTION WHERE PLAN PROVIDED FOR MATCHING CONTRIBUTIONS.—Clause (i) shall not apply to any plan year if the plan provided at any time during the plan year that the requirements of subparagraph (B) or paragraph (13)(D)(i)(I) applied to the plan year.

“(iii) 4-PERCENT CONTRIBUTION REQUIREMENT.—Clause (i)(II) shall not apply to an arrangement unless the amount of the contributions described in subparagraph (C) which the employer is required to make under the arrangement for the plan year with respect to any em-

1 ployee is an amount equal to at least 4
 2 percent of the employee's compensation.”.

3 (c) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—
 4 Section 401(k)(13) of the Internal Revenue Code of 1986
 5 is amended by adding at the end the following :

6 “(F) TIMING OF PLAN AMENDMENT FOR
 7 EMPLOYER MAKING NONELECTIVE CONTRIBU-
 8 TIONS.—

9 “(i) IN GENERAL.—Except as pro-
 10 vided in clause (ii), a plan may be amend-
 11 ed after the beginning of a plan year to
 12 provide that the requirements of subpara-
 13 graph (D)(i)(II) shall apply to the arrange-
 14 ment for the plan year, but only if the
 15 amendment is adopted—

16 “(I) at any time before the 30th
 17 day before the close of the plan year,
 18 or

19 “(II) at any time before the last
 20 day under paragraph (8)(A) for dis-
 21 tributing excess contributions for the
 22 plan year.

23 “(ii) EXCEPTION WHERE PLAN PRO-
 24 VIDED FOR MATCHING CONTRIBUTIONS.—
 25 Clause (i) shall not apply to any plan year

1 if the plan provided at any time during the
 2 plan year that the requirements of sub-
 3 paragraph (D)(i)(I) or paragraph (12)(B)
 4 applied to the plan year.

5 “(iii) 4-PERCENT CONTRIBUTION RE-
 6 QUIREMENT.—Clause (i)(II) shall not
 7 apply to an arrangement unless the
 8 amount of the contributions described in
 9 subparagraph (D)(i)(II) which the em-
 10 ployer is required to make under the ar-
 11 rangement for the plan year with respect
 12 to any employee is an amount equal to at
 13 least 4 percent of the employee’s com-
 14 pensation.”.

15 (d) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to plan years beginning after De-
 17 cember 31, 2018.

18 **SEC. 105. INCREASE IN CREDIT LIMITATION FOR SMALL**
 19 **EMPLOYER PENSION PLAN STARTUP COSTS.**

20 (a) IN GENERAL.—Paragraph (1) of section 45E(b)
 21 of the Internal Revenue Code of 1986 is amended to read
 22 as follows:

23 “(1) for the first credit year and each of the 2
 24 taxable years immediately following the first credit
 25 year, the greater of—

1 “(A) \$500, or

2 “(B) the lesser of—

3 “(i) \$250 for each employee of the eli-
 4 gible employer who is not a highly com-
 5 pensated employee (as defined in section
 6 414(q)) and who is eligible to participate
 7 in the eligible employer plan maintained by
 8 the eligible employer, or

9 “(ii) \$5,000, and”.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 2018.

13 **SEC. 106. SMALL EMPLOYER AUTOMATIC ENROLLMENT**
 14 **CREDIT.**

15 (a) IN GENERAL.—Subpart D of part IV of sub-
 16 chapter A of chapter 1 of the Internal Revenue Code of
 17 1986 is amended by adding at the end the following new
 18 section:

19 **“SEC. 45S. AUTO-ENROLLMENT OPTION FOR RETIREMENT**
 20 **SAVINGS OPTIONS PROVIDED BY SMALL EM-**
 21 **PLOYERS.**

22 “(a) IN GENERAL.—For purposes of section 38, in
 23 the case of an eligible employer, the retirement auto-en-
 24 rollment credit determined under this section for any tax-
 25 able year is an amount equal to—

1 “(1) \$500 for any taxable year occurring during
2 the credit period, and

3 “(2) zero for any other taxable year.

4 “(b) CREDIT PERIOD.—For purposes of subsection
5 (a)—

6 “(1) IN GENERAL.—The credit period with re-
7 spect to any eligible employer is the 3-taxable-year
8 period beginning with the first taxable year for
9 which the employer includes an eligible automatic
10 contribution arrangement (as defined in section
11 414(w)(3)) in a qualified employer plan (as defined
12 in section 4972(d)) sponsored by the employer.

13 “(2) MAINTENANCE OF ARRANGEMENT.—No
14 taxable year with respect to an employer shall be
15 treated as occurring within the credit period unless
16 the arrangement described in paragraph (1) is in-
17 cluded in the plan for such year.

18 “(c) ELIGIBLE EMPLOYER.—For purposes of this
19 section, the term ‘eligible employer’ has the meaning given
20 such term in section 408(p)(2)(C)(i).”.

21 (b) CREDIT TO BE PART OF GENERAL BUSINESS
22 CREDIT.—Subsection (b) of section 38 of the Internal
23 Revenue Code of 1986 is amended by striking “plus” at
24 the end of paragraph (35), by striking the period at the

1 end of paragraph (36) and inserting “, plus”, and by add-
 2 ing at the end the following new paragraph:

3 “(37) in the case of an eligible employer (as de-
 4 fined in section 45S(c)), the retirement auto-enroll-
 5 ment credit determined under section 45S(a).”.

6 (c) CLERICAL AMENDMENT.—The table of sections
 7 for subpart D of part IV of subchapter A of chapter 1
 8 of the Internal Revenue Code of 1986 is amended by in-
 9 serting after the item relating to section 45R the following
 10 new item:

“Sec. 45S. Auto-enrollment option for retirement savings options provided by
 small employers.”.

11 (d) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to taxable years beginning after
 13 December 31, 2018.

14 **SEC. 107. CERTAIN TAXABLE NON-TUITION FELLOWSHIP**
 15 **AND STIPEND PAYMENTS TREATED AS COM-**
 16 **PENSATION FOR IRA PURPOSES.**

17 (a) IN GENERAL.—Paragraph (1) of section 219(f)
 18 of the Internal Revenue Code of 1986 is amended by add-
 19 ing at the end the following: “The term ‘compensation’
 20 shall include any amount paid to an individual to aid the
 21 individual in the pursuit of graduate or postdoctoral
 22 study.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2018.

4 **SEC. 108. REPEAL OF MAXIMUM AGE FOR TRADITIONAL IRA**
 5 **CONTRIBUTIONS.**

6 (a) IN GENERAL.—Paragraph (1) of section 219(d)
 7 of the Internal Revenue Code of 1986 is repealed.

8 (b) CONFORMING AMENDMENT.—Subsection (c) of
 9 section 408A of the Internal Revenue Code of 1986 is
 10 amended by striking paragraph (4) and by redesignating
 11 paragraphs (5), (6), and (7) as paragraphs (4), (5), and
 12 (6), respectively.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to contributions made for taxable
 15 years beginning after December 31, 2018.

16 **SEC. 109. EXPANSION OF IRA OWNERSHIP OF S CORPORA-**
 17 **TION BANK STOCK.**

18 (a) IN GENERAL.—Section 1361(c)(2)(A)(vi) of the
 19 Internal Revenue Code of 1986 is amended by striking “,
 20 but only to the extent of the stock held by such trust in
 21 such bank or company as of the date of the enactment
 22 of this clause”.

23 (b) SALE OF STOCK IN IRA RELATING TO S COR-
 24 PORATION ELECTION EXEMPT FROM PROHIBITED
 25 TRANSACTION RULES.—Section 4975(d)(16) of the Inter-

1 nal Revenue Code of 1986 is amended by striking sub-
 2 paragraph (B) and by redesignating subparagraphs (C),
 3 (D), (E), and (F) as subparagraphs (B), (C), (D) and (E),
 4 respectively.

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall take effect on January 1, 2018.

7 **SEC. 110. QUALIFIED EMPLOYER PLANS PROHIBITED FROM**
 8 **MAKING LOANS THROUGH CREDIT CARDS**
 9 **AND OTHER SIMILAR ARRANGEMENTS.**

10 (a) IN GENERAL.—Paragraph (2) of section 72(p) of
 11 the Internal Revenue Code of 1986 is amended by redesign-
 12 nating subparagraph (D) as subparagraph (E) and by in-
 13 serting after subparagraph (C) the following new subpara-
 14 graph:

15 “(D) PROHIBITION OF LOANS THROUGH
 16 CREDIT CARDS AND OTHER SIMILAR ARRANGE-
 17 MENTS.—

18 “(i) IN GENERAL.—Except as pro-
 19 vided in clause (ii), subparagraph (A) shall
 20 not apply to any loan which is made
 21 through the use of any credit card or any
 22 other similar arrangement.

23 “(ii) EXCEPTION FOR EXISTING CRED-
 24 IT CARD SYSTEMS.—Clause (i) shall not
 25 apply to any loan to the extent such loan

1 is provided through an electronic card sys-
 2 tem which, as of September 21, 2016, was
 3 available for use to provide loans under
 4 qualified employer plans.

5 “(iii) DISALLOWED TRANSACTIONS.—
 6 If any card through which a loan is pro-
 7 vided under the exception of clause (ii) is
 8 used for any transaction—

9 “(I) in an amount equal to or
 10 less than \$1,000, or

11 “(II) with or on the premises of
 12 any establishment described in clause
 13 (i), (ii), or (iii) of section
 14 408(a)(12)(A) of the Social Security
 15 Act,

16 the amount of such transaction shall be
 17 treated as having been received by the in-
 18 dividual as a distribution in accordance
 19 with subparagraph (A) of paragraph (1).

20 “(iv) COST-OF-LIVING ADJUST-
 21 MENT.—In the case of any loan made dur-
 22 ing a plan year beginning after December
 23 31, 2019, the \$1,000 amount under clause
 24 (iii)(I) shall be increased by an amount
 25 equal to—

1 “(I) such dollar amount, multi-
2 plied by

3 “(II) the cost-of-living adjust-
4 ment determined under section 1(f)(3)
5 for the calendar year in which the
6 plan year begins, determined by sub-
7 stituting ‘calendar year 2018’ for ‘cal-
8 endar year 1992’ in subparagraph (B)
9 thereof. Any increase determined
10 under the preceding sentence shall be
11 rounded to the next lowest multiple of
12 \$50.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 subsection (a) shall apply to plan years beginning after
15 December 31, 2018.

16 (c) STUDY.—The Comptroller General of the United
17 States shall, not later than the date which is 1 year after
18 the date of the enactment of this Act—

19 (1) study the impact of loans from qualified
20 employer plans (as defined in section 72(p)(4)(A) of
21 the Internal Revenue Code of 1986) provided
22 through credit cards and similar arrangements on
23 the use of retirement savings for purposes other
24 than funding retirement; and

1 (2) report the results of such study to the Com-
 2 mittee on Finance of the Senate and the Committee
 3 on the Ways and Means of the House of Representa-
 4 tives.

5 If the study under paragraph (1) determines that such
 6 loans, after implementation of the restrictions imposed by
 7 the amendment made by subsection (a), result in greater
 8 usage of retirement savings for purposes other than fund-
 9 ing retirement than loans made by other means, the report
 10 under paragraph (2) shall include recommendations to re-
 11 duce such result.

12 **SEC. 111. PORTABILITY OF LIFETIME INCOME OPTIONS.**

13 (a) IN GENERAL.—Subsection (a) of section 401 of
 14 the Internal Revenue Code of 1986 is amended by insert-
 15 ing after paragraph (37) the following new paragraph:

16 “(38) PORTABILITY OF LIFETIME INCOME.—

17 “(A) IN GENERAL.—Except as may be oth-
 18 erwise provided by regulations, a trust forming
 19 part of a defined contribution plan shall not be
 20 treated as failing to constitute a qualified trust
 21 under this section solely by reason of allowing—

22 “(i) qualified distributions of a life-
 23 time income investment, or

1 “(ii) distributions of a lifetime income
2 investment in the form of a qualified plan
3 distribution annuity contract,
4 on or after the date that is 90 days prior to the
5 date on which such lifetime income investment
6 is no longer authorized to be held as an invest-
7 ment option under the plan.

8 “(B) DEFINITIONS.—For purposes of this
9 subsection—

10 “(i) the term ‘qualified distribution’
11 means a direct trustee-to-trustee transfer
12 described in paragraph (31)(A) to an eligi-
13 ble retirement plan (as defined in section
14 402(c)(8)(B)),

15 “(ii) the term ‘lifetime income invest-
16 ment’ means an investment option which is
17 designed to provide an employee with elec-
18 tion rights—

19 “(I) which are not uniformly
20 available with respect to other invest-
21 ment options under the plan, and

22 “(II) which are to a lifetime in-
23 come feature available through a con-
24 tract or other arrangement offered
25 under the plan (or under another eli-

1 gible retirement plan (as so defined),
2 if paid by means of a direct trustee-
3 to-trustee transfer described in para-
4 graph (31)(A) to such other eligible
5 retirement plan),

6 “(iii) the term ‘lifetime income fea-
7 ture’ means—

8 “(I) a feature which guarantees a
9 minimum level of income annually (or
10 more frequently) for at least the re-
11 mainder of the life of the employee or
12 the joint lives of the employee and the
13 employee’s designated beneficiary, or

14 “(II) an annuity payable on be-
15 half of the employee under which pay-
16 ments are made in substantially equal
17 periodic payments (not less frequently
18 than annually) over the life of the em-
19 ployee or the joint lives of the em-
20 ployee and the employee’s designated
21 beneficiary, and

22 “(iv) the term ‘qualified plan distribu-
23 tion annuity contract’ means an annuity
24 contract purchased for a participant and
25 distributed to the participant by a plan or

1 contract described in subparagraph (B) of
 2 section 402(c)(8) (without regard to
 3 clauses (i) and (ii) thereof).”.

4 (b) CASH OR DEFERRED ARRANGEMENT.—

5 (1) IN GENERAL.—Clause (i) of section
 6 401(k)(2)(B) of the Internal Revenue Code of 1986,
 7 as amended by section 110(a), is amended by strik-
 8 ing “or” at the end of subclause (IV), by striking
 9 “and” at the end of subclause (V) and inserting
 10 “or”, and by adding at the end the following new
 11 subclause:

12 “(VI) except as may be otherwise
 13 provided by regulations, with respect
 14 to amounts invested in a lifetime in-
 15 come investment (as defined in sub-
 16 section (a)(38)(B)(ii)), the date that
 17 is 90 days prior to the date that such
 18 lifetime income investment may no
 19 longer be held as an investment option
 20 under the arrangement, and”.

21 (2) DISTRIBUTION REQUIREMENT.—Subpara-
 22 graph (B) of section 401(k)(2) of such Code, as
 23 amended by paragraph (1), is amended by striking
 24 “and” at the end of clause (i), by striking the semi-

colon at the end of clause (ii) and inserting “, and”,
and by adding at the end the following new clause:

“(iii) except as may be otherwise provided by regulations, in the case of amounts described in clause (i)(VI), will be distributed only in the form of a qualified distribution (as defined in subsection (a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in subsection (a)(38)(B)(iv)),”.

(c) SECTION 403(b) PLANS.—

(1) ANNUITY CONTRACTS.—Paragraph (11) of section 403(b) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, or”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) except as may be otherwise provided by regulations, with respect to amounts invested in a lifetime income investment (as defined in section 401(a)(38)(B)(ii))—

“(i) on or after the date that is 90 days prior to the date that such lifetime income investment may no longer be held

as an investment option under the contract, and

“(ii) in the form of a qualified distribution (as defined in section 401(a)(38)(B)(i)) or a qualified plan distribution annuity contract (as defined in section 401(a)(38)(B)(iv)).”.

(2) CUSTODIAL ACCOUNTS.—Subparagraph (A) of section 403(b)(7) of such Code is amended by striking “if—” and all that follows and inserting “if the amounts are to be invested in regulated investment company stock to be held in that custodial account, and under the custodial account—

“(i) no such amounts may be paid or made available to any distributee (unless such amount is a distribution to which section 72(t)(2)(G) applies) before—

“(I) the employee dies,

“(II) the employee attains age 59½,

“(III) the employee has a severance from employment,

“(IV) the employee becomes disabled (within the meaning of section 72(m)(7)),

1 “(V) in the case of contributions
 2 made pursuant to a salary reduction
 3 agreement (within the meaning of sec-
 4 tion 3121(a)(5)(D)), the employee en-
 5 counters financial hardship, or

6 “(VI) except as may be otherwise
 7 provided by regulations, with respect
 8 to amounts invested in a lifetime in-
 9 come investment (as defined in section
 10 401(a)(38)(B)(ii)), the date that is 90
 11 days prior to the date that such life-
 12 time income investment may no longer
 13 be held as an investment option under
 14 the contract, and

15 “(ii) in the case of amounts described
 16 in clause (i)(VI), such amounts will be dis-
 17 tributed only in the form of a qualified dis-
 18 tribution (as defined in section
 19 401(a)(38)(B)(i)) or a qualified plan dis-
 20 tribution annuity contract (as defined in
 21 section 401(a)(38)(B)(iv)).”.

22 (d) ELIGIBLE DEFERRED COMPENSATION PLANS.—

23 (1) IN GENERAL.—Subparagraph (A) of section
 24 457(d)(1) of the Internal Revenue Code of 1986 is
 25 amended by striking “or” at the end of clause (ii),

1 by inserting “or” at the end of clause (iii), and by
 2 adding after clause (iii) the following:

3 “(iv) except as may be otherwise pro-
 4 vided by regulations, in the case of a plan
 5 maintained by an employer described in
 6 subsection (e)(1)(A), with respect to
 7 amounts invested in a lifetime income in-
 8 vestment (as defined in section
 9 401(a)(38)(B)(ii)), the date that is 90
 10 days prior to the date that such lifetime
 11 income investment may no longer be held
 12 as an investment option under the plan,”.

13 (2) DISTRIBUTION REQUIREMENT.—Paragraph
 14 (1) of section 457(d) of such Code is amended by
 15 striking “and” at the end of subparagraph (B), by
 16 striking the period at the end of subparagraph (C)
 17 and inserting “, and”, and by inserting after sub-
 18 paragraph (C) the following new subparagraph:

19 “(D) except as may be otherwise provided
 20 by regulations, in the case of amounts described
 21 in subparagraph (A)(iv), such amounts will be
 22 distributed only in the form of a qualified dis-
 23 tribution (as defined in section
 24 401(a)(38)(B)(i)) or a qualified plan distribu-

1 tion annuity contract (as defined in section
2 401(a)(38)(B)(iv)).”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to plan years beginning after De-
5 cember 31, 2018.

6 **SEC. 112. TREATMENT OF CUSTODIAL ACCOUNTS ON TER-**
7 **MINATION OF SECTION 403(b) PLANS.**

8 (a) IN GENERAL.—Section 403(b)(7) of the Internal
9 Revenue Code of 1986 is amended by adding at the end
10 the following:

11 “(D) TREATMENT OF CUSTODIAL AC-
12 COUNT UPON PLAN TERMINATION.—

13 “(i) IN GENERAL.—If—

14 “(I) an employer terminates the
15 plan under which amounts are con-
16 tributed to a custodial account under
17 subparagraph (A), and

18 “(II) the person holding the as-
19 sets of the account has demonstrated
20 to the satisfaction of the Secretary
21 under section 408(a)(2) that the per-
22 son is qualified to be a trustee of an
23 individual retirement plan,

24 then, as of the date of the termination, the
25 custodial account shall be deemed to be an

1 individual retirement plan for purposes of
2 this title.

3 “(ii) TREATMENT AS ROTH IRA.—Any
4 custodial account treated as an individual
5 retirement plan under clause (i) shall be
6 treated as a Roth IRA only if the custodial
7 account was a designated Roth account.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to plan terminations occurring
10 after December 31, 2018.

11 **SEC. 113. CLARIFICATION OF RETIREMENT INCOME AC-**
12 **COUNT RULES RELATING TO CHURCH-CON-**
13 **TROLLED ORGANIZATIONS.**

14 (a) IN GENERAL.—Subparagraph (B) of section
15 403(b)(9) of the Internal Revenue Code of 1986 is amend-
16 ed by inserting “(including an employee described in sec-
17 tion 414(e)(3)(B))” after “employee described in para-
18 graph (1)”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to years beginning before, on, or
21 after the date of the enactment of this Act.

TITLE II—ADMINISTRATIVE IMPROVEMENTS

SEC. 201. PLAN ADOPTED BY FILING DUE DATE FOR YEAR MAY BE TREATED AS IN EFFECT AS OF CLOSE OF YEAR.

(a) IN GENERAL.—Subsection (b) of section 401 of the Internal Revenue Code of 1986 is amended—

(1) by striking “RETROACTIVE CHANGES IN PLAN.—A stock bonus” and inserting “PLAN AMENDMENTS.—

“(1) CERTAIN RETROACTIVE CHANGES IN PLAN.—A stock bonus”; and

(2) by adding at the end the following new paragraph:

“(2) ADOPTION OF PLAN.—If an employer adopts a stock bonus, pension, profit-sharing, or annuity plan after the close of a taxable year but before the time prescribed by law for filing the return of the employer for the taxable year (including extensions thereof), the employer may elect to treat the plan as having been adopted as of the last day of the taxable year.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plans adopted for taxable years beginning after December 31, 2018.

1 **SEC. 202. COMBINED ANNUAL REPORT FOR GROUP OF**
2 **PLANS.**

3 (a) IN GENERAL.—The Secretary of the Treasury
4 and the Secretary of Labor shall, in cooperation, modify
5 the returns required under section 6058 of the Internal
6 Revenue Code of 1986 and the reports required by section
7 104 of the Employee Retirement Income Security Act of
8 1974 (29 U.S.C. 1024) so that all members of a group
9 of plans described in subsection (c) may file a single aggre-
10 gated annual return or report satisfying the requirements
11 of both such sections.

12 (b) ADMINISTRATIVE REQUIREMENTS.—In devel-
13 oping the consolidated return or report under subsection
14 (a), the Secretary of the Treasury and the Secretary of
15 Labor may require such return or report to include any
16 information regarding each plan in the group as such Sec-
17 retaries determine is necessary or appropriate for the en-
18 forcement and administration of the Internal Revenue
19 Code of 1986 and the Employee Retirement Income Secu-
20 rity Act of 1974.

21 (c) PLANS DESCRIBED.—A group of plans is de-
22 scribed in this subsection if all plans in the group—

23 (1) are individual account plans or defined con-
24 tribution plans (as defined in section 3(34) of the
25 Employee Retirement Income Security Act of 1974

1 (29 U.S.C. 1002(34)) or in section 414(i) of the In-
 2 ternal Revenue Code of 1986);

3 (2) have—

4 (A) the same trustee (as described in sec-
 5 tion 403(a) of such Act (29 U.S.C. 1103(a)));

6 (B) the same one or more named fidu-
 7 ciaries (as described in section 402(a) of such
 8 Act (29 U.S.C. 1102(a)));

9 (C) the same administrator (as defined in
 10 section 3(16)(A) of such Act (29 U.S.C.
 11 1002(16)(A))) and plan administrator (as de-
 12 fined in section 414(g) of the Internal Revenue
 13 Code of 1986); and

14 (D) plan years beginning on the same
 15 date; and

16 (3) provide the same investments or investment
 17 options to participants and beneficiaries.

18 A plan not subject to title I of the Employee Retirement
 19 Income Security Act of 1974 shall be treated as meeting
 20 the requirements of paragraph (2) as part of a group of
 21 plans if the same person that performs each of the func-
 22 tions described in such paragraph, as applicable, for all
 23 other plans in such group performs each of such functions
 24 for such plan.

1 (d) CLARIFICATION RELATING TO ELECTRONIC FIL-
 2 ING OF RETURNS FOR DEFERRED COMPENSATION
 3 PLANS.—

4 (1) IN GENERAL.—Section 6011(e) of the Inter-
 5 nal Revenue Code of 1986 is amended by adding at
 6 the end the following new paragraph:

7 “(5) APPLICATION OF NUMERICAL LIMITATION
 8 TO RETURNS RELATING TO DEFERRED COMPENSA-
 9 TION PLANS.—For purposes of applying the numer-
 10 ical limitation under paragraph (2)(A) to any return
 11 required under section 6058, information regarding
 12 each plan for which information is provided on such
 13 return shall be treated as a separate return.”.

14 (2) EFFECTIVE DATE.—The amendment made
 15 by paragraph (1) shall apply to returns required to
 16 be filed with respect to plan years beginning after
 17 December 31, 2018.

18 (e) EFFECTIVE DATE.—The modification required by
 19 subsection (a) shall be implemented not later than Janu-
 20 ary 1, 2021, and shall apply to returns and reports for
 21 plan years beginning after December 31, 2020.

22 **SEC. 203. DISCLOSURE REGARDING LIFETIME INCOME.**

23 (a) IN GENERAL.—Subparagraph (B) of section
 24 105(a)(2) of the Employee Retirement Income Security
 25 Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

1 (1) in clause (i), by striking “and” at the end;

2 (2) in clause (ii), by striking “diversification.”

3 and inserting “diversification, and”; and

4 (3) by inserting at the end the following:

5 “(iii) the lifetime income disclosure
6 described in subparagraph (D)(i).

7 In the case of pension benefit statements de-
8 scribed in clause (i) of paragraph (1)(A), a life-
9 time income disclosure under clause (iii) of this
10 subparagraph shall be required to be included
11 in only one pension benefit statement during
12 any one 12-month period.”.

13 (b) LIFETIME INCOME.—Paragraph (2) of section
14 105(a) of the Employee Retirement Income Security Act
15 of 1974 (29 U.S.C. 1025(a)) is amended by adding at the
16 end the following new subparagraph:

17 “(D) LIFETIME INCOME DISCLOSURE.—

18 “(i) IN GENERAL.—

19 “(I) DISCLOSURE.—A lifetime in-
20 come disclosure shall set forth the life-
21 time income stream equivalent of the
22 total benefits accrued with respect to
23 the participant or beneficiary.

24 “(II) LIFETIME INCOME STREAM
25 EQUIVALENT OF THE TOTAL BENE-

1 FITS ACCRUED.—For purposes of this
2 subparagraph, the term ‘lifetime in-
3 come stream equivalent of the total
4 benefits accrued’ means the amount of
5 monthly payments the participant or
6 beneficiary would receive if the total
7 accrued benefits of such participant or
8 beneficiary were used to provide life-
9 time income streams described in sub-
10 clause (III), based on assumptions
11 specified in rules prescribed by the
12 Secretary.

13 “(III) LIFETIME INCOME
14 STREAMS.—The lifetime income
15 streams described in this subclause
16 are a qualified joint and survivor an-
17 nuity (as defined in section 205(d)),
18 based on assumptions specified in
19 rules prescribed by the Secretary, in-
20 cluding the assumption that the par-
21 ticipant or beneficiary has a spouse of
22 equal age, and a single life annuity.
23 Such lifetime income streams may
24 have a term certain or other features

1 to the extent permitted under rules
2 prescribed by the Secretary.

3 “(ii) MODEL DISCLOSURE.—Not later
4 than 1 year after the date of the enact-
5 ment of the Retirement Enhancement and
6 Savings Act of 2018, the Secretary shall
7 issue a model lifetime income disclosure,
8 written in a manner so as to be understood
9 by the average plan participant, which—

10 “(I) explains that the lifetime in-
11 come stream equivalent is only pro-
12 vided as an illustration;

13 “(II) explains that the actual
14 payments under the lifetime income
15 stream described in clause (i)(III)
16 which may be purchased with the
17 total benefits accrued will depend on
18 numerous factors and may vary sub-
19 stantially from the lifetime income
20 stream equivalent in the disclosures;

21 “(III) explains the assumptions
22 upon which the lifetime income stream
23 equivalent was determined; and

1 “(IV) provides such other similar
 2 explanations as the Secretary con-
 3 siders appropriate.

4 “(iii) ASSUMPTIONS AND RULES.—
 5 Not later than 1 year after the date of the
 6 enactment of the Retirement Enhancement
 7 and Savings Act of 2018, the Secretary
 8 shall—

9 “(I) prescribe assumptions which
 10 administrators of individual account
 11 plans may use in converting total ac-
 12 crued benefits into lifetime income
 13 stream equivalents for purposes of
 14 this subparagraph; and

15 “(II) issue interim final rules
 16 under clause (i).

17 In prescribing assumptions under sub-
 18 clause (I), the Secretary may prescribe a
 19 single set of specific assumptions (in which
 20 case the Secretary may issue tables or fac-
 21 tors which facilitate such conversions), or
 22 ranges of permissible assumptions. To the
 23 extent that an accrued benefit is or may be
 24 invested in a lifetime income stream de-
 25 scribed in clause (i)(III), the assumptions

1 prescribed under subclause (I) shall, to the
2 extent appropriate, permit administrators
3 of individual account plans to use the
4 amounts payable under such lifetime in-
5 come stream as a lifetime income stream
6 equivalent.

7 “(iv) LIMITATION ON LIABILITY.—No
8 plan fiduciary, plan sponsor, or other per-
9 son shall have any liability under this title
10 solely by reason of the provision of lifetime
11 income stream equivalents which are de-
12 rived in accordance with the assumptions
13 and rules described in clause (iii) and
14 which include the explanations contained in
15 the model lifetime income disclosure de-
16 scribed in clause (ii). This clause shall
17 apply without regard to whether the provi-
18 sion of such lifetime income stream equiva-
19 lent is required by subparagraph (B)(iii).

20 “(v) EFFECTIVE DATE.—The require-
21 ment in subparagraph (B)(iii) shall apply
22 to pension benefit statements furnished
23 more than 12 months after the latest of
24 the issuance by the Secretary of—

1 “(I) interim final rules under
 2 clause (i);
 3 “(II) the model disclosure under
 4 clause (ii); or
 5 “(III) the assumptions under
 6 clause (iii).”.

7 **SEC. 204. FIDUCIARY SAFE HARBOR FOR SELECTION OF**
 8 **LIFETIME INCOME PROVIDER.**

9 Section 404 of the Employee Retirement Income Se-
 10 curity Act of 1974 (29 U.S.C. 1104) is amended by adding
 11 at the end the following:

12 “(e) SAFE HARBOR FOR ANNUITY SELECTION.—

13 “(1) IN GENERAL.—With respect to the selec-
 14 tion of an insurer for a guaranteed retirement in-
 15 come contract, the requirements of subsection
 16 (a)(1)(B) will be deemed to be satisfied if a fidu-
 17 ciary—

18 “(A) engages in an objective, thorough,
 19 and analytical search for the purpose of identi-
 20 fying insurers from which to purchase such con-
 21 tracts;

22 “(B) with respect to each insurer identified
 23 under subparagraph (A)—

24 “(i) considers the financial capability
 25 of such insurer to satisfy its obligations

1 under the guaranteed retirement income
2 contract; and

3 “(ii) considers the cost (including fees
4 and commissions) of the guaranteed retire-
5 ment income contract offered by the in-
6 surer in relation to the benefits and prod-
7 uct features of the contract and adminis-
8 trative services to be provided under such
9 contract; and

10 “(C) on the basis of such consideration,
11 concludes that—

12 “(i) at the time of the selection, the
13 insurer is financially capable of satisfying
14 its obligations under the guaranteed retire-
15 ment income contract; and

16 “(ii) the relative cost of the selected
17 guaranteed retirement income contract as
18 described in subparagraph (B)(ii) is rea-
19 sonable.

20 “(2) FINANCIAL CAPABILITY OF THE IN-
21 SURER.—A fiduciary will be deemed to satisfy the
22 requirements of paragraphs (1)(B)(i) and (1)(C)(i)
23 if—

24 “(A) the fiduciary obtains written rep-
25 resentations from the insurer that—

1 “(i) the insurer is licensed to offer
2 guaranteed retirement income contracts;

3 “(ii) the insurer, at the time of selec-
4 tion and for each of the immediately pre-
5 ceding 7 plan years—

6 “(I) operates under a certificate
7 of authority from the insurance com-
8 missioner of its domiciliary State
9 which has not been revoked or sus-
10 pended;

11 “(II) has filed audited financial
12 statements in accordance with the
13 laws of its domiciliary State under ap-
14 plicable statutory accounting prin-
15 ciples;

16 “(III) maintains (and has main-
17 tained) reserves which satisfies all the
18 statutory requirements of all States
19 where the insurer does business; and

20 “(IV) is not operating under an
21 order of supervision, rehabilitation, or
22 liquidation;

23 “(iii) the insurer undergoes, at least
24 every 5 years, a financial examination
25 (within the meaning of the law of its domi-

1 ciliary State) by the insurance commis-
2 sioner of the domiciliary State (or rep-
3 resentative, designee, or other party ap-
4 proved by such commissioner); and

5 “(iv) the insurer will notify the fidu-
6 ciary of any change in circumstances oc-
7 ccurring after the provision of the represen-
8 tations in clauses (i), (ii), and (iii) which
9 would preclude the insurer from making
10 such representations at the time of
11 issuance of the guaranteed retirement in-
12 come contract; and

13 “(B) after receiving such representations
14 and as of the time of selection, the fiduciary
15 has not received any notice described in sub-
16 paragraph (A)(iv) and is in possession of no
17 other information which would cause the fidu-
18 ciary to question the representations provided.

19 “(3) NO REQUIREMENT TO SELECT LOWEST
20 COST.—Nothing in this subsection shall be construed
21 to require a fiduciary to select the lowest cost con-
22 tract. A fiduciary may consider the value of a con-
23 tract, including features and benefits of the contract
24 and attributes of the insurer (including, without lim-

1 itation, the insurer’s financial strength) in conjunc-
 2 tion with the cost of the contract.

3 “(4) TIME OF SELECTION.—

4 “(A) IN GENERAL.—For purposes of this
 5 subsection, the time of selection is—

6 “(i) the time that the insurer and the
 7 contract are selected for distribution of
 8 benefits to a specific participant or bene-
 9 ficiary; or

10 “(ii) if the fiduciary periodically re-
 11 views the continuing appropriateness of the
 12 conclusion described in paragraph (1)(C)
 13 with respect to a selected insurer, taking
 14 into account the considerations described
 15 in such paragraph, the time that the in-
 16 surer and the contract are selected to pro-
 17 vide benefits at future dates to participants
 18 or beneficiaries under the plan.

19 Nothing in the preceding sentence shall be con-
 20 strued to require the fiduciary to review the ap-
 21 propriateness of a selection after the purchase
 22 of a contract for a participant or beneficiary.

23 “(B) PERIODIC REVIEW.—A fiduciary will
 24 be deemed to have conducted the periodic re-
 25 view described in subparagraph (A)(ii) if the fi-

1 duciary obtains the written representations de-
2 scribed in clauses (i), (ii), and (iii) of paragraph
3 (2)(A) from the insurer on an annual basis, un-
4 less the fiduciary receives any notice described
5 in paragraph (2)(A)(iv) or otherwise becomes
6 aware of facts that would cause the fiduciary to
7 question such representations.

8 “(5) LIMITED LIABILITY.—A fiduciary which
9 satisfies the requirements of this subsection shall not
10 be liable following the distribution of any benefit, or
11 the investment by or on behalf of a participant or
12 beneficiary pursuant to the selected guaranteed re-
13 tirement income contract, for any losses that may
14 result to the participant or beneficiary due to an in-
15 surer’s inability to satisfy its financial obligations
16 under the terms of such contract.

17 “(6) DEFINITIONS.—For purposes of this sub-
18 section—

19 “(A) INSURER.—The term ‘insurer’ means
20 an insurance company, insurance service, or in-
21 surance organization, including affiliates of
22 such companies.

23 “(B) GUARANTEED RETIREMENT INCOME
24 CONTRACT.—The term ‘guaranteed retirement
25 income contract’ means an annuity contract for

a fixed term or a contract (or provision or feature thereof) which provides guaranteed benefits annually (or more frequently) for at least the remainder of the life of the participant or the joint lives of the participant and the participant's designated beneficiary as part of an individual account plan.”.

**SEC. 205. MODIFICATION OF NONDISCRIMINATION RULES
TO PROTECT OLDER, LONGER SERVICE PARTICIPANTS.**

(a) IN GENERAL.—Section 401 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following new subsection:

“(o) SPECIAL RULES FOR APPLYING NONDISCRIMINATION RULES TO PROTECT OLDER, LONGER SERVICE AND GRANDFATHERED PARTICIPANTS .—

“(1) TESTING OF DEFINED BENEFIT PLANS WITH CLOSED CLASSES OF PARTICIPANTS.—

“(A) BENEFITS, RIGHTS, OR FEATURES PROVIDED TO CLOSED CLASSES.—A defined benefit plan which provides benefits, rights, or features to a closed class of participants shall

1 not fail to satisfy the requirements of sub-
2 section (a)(4) by reason of the composition of
3 such closed class or the benefits, rights, or fea-
4 tures provided to such closed class, if—

5 “(i) for the plan year as of which the
6 class closes and the 2 succeeding plan
7 years, such benefits, rights, and features
8 satisfy the requirements of subsection
9 (a)(4) (without regard to this subpara-
10 graph but taking into account the rules of
11 subparagraph (I)),

12 “(ii) after the date as of which the
13 class was closed, any plan amendment
14 which modifies the closed class or the ben-
15 efits, rights, and features provided to such
16 closed class does not discriminate signifi-
17 cantly in favor of highly compensated em-
18 ployees, and

19 “(iii) the class was closed before Sep-
20 tember 21, 2016, or the plan is described
21 in subparagraph (C).

22 “(B) AGGREGATE TESTING WITH DEFINED
23 CONTRIBUTION PLANS PERMITTED ON A BENE-
24 FITS BASIS.—

1 “(i) IN GENERAL.—For purposes of
2 determining compliance with subsection
3 (a)(4) and section 410(b), a defined benefit
4 plan described in clause (iii) may be aggre-
5 gated and tested on a benefits basis with
6 1 or more defined contribution plans, in-
7 cluding with the portion of 1 or more de-
8 fined contribution plans which—

9 “(I) provides matching contribu-
10 tions (as defined in subsection
11 (m)(4)(A)),

12 “(II) provides annuity contracts
13 described in section 403(b) which are
14 purchased with matching contribu-
15 tions or nonelective contributions, or

16 “(III) consists of an employee
17 stock ownership plan (within the
18 meaning of section 4975(e)(7)) or a
19 tax credit employee stock ownership
20 plan (within the meaning of section
21 409(a)).

22 “(ii) SPECIAL RULES FOR MATCHING
23 CONTRIBUTIONS.—For purposes of clause
24 (i), if a defined benefit plan is aggregated

1 with a portion of a defined contribution
2 plan providing matching contributions—

3 “(I) such defined benefit plan
4 must also be aggregated with any por-
5 tion of such defined contribution plan
6 which provides elective deferrals de-
7 scribed in subparagraph (A) or (C) of
8 section 402(g)(3), and

9 “(II) such matching contribu-
10 tions shall be treated in the same
11 manner as nonelective contributions,
12 including for purposes of applying the
13 rules of subsection (l).

14 “(iii) PLANS DESCRIBED.—A defined
15 benefit plan is described in this clause if—

16 “(I) the plan provides benefits to
17 a closed class of participants,

18 “(II) for the plan year as of
19 which the class closes and the 2 suc-
20 ceeding plan years, the plan satisfies
21 the requirements of section 410(b)
22 and subsection (a)(4) (without regard
23 to this subparagraph but taking into
24 account the rules of subparagraph
25 (I)),

1 “(III) after the date as of which
2 the class was closed, any plan amend-
3 ment which modifies the closed class
4 or the benefits provided to such closed
5 class does not discriminate signifi-
6 cantly in favor of highly compensated
7 employees, and

8 “(IV) the class was closed before
9 September 21, 2016, or the plan is
10 described in subparagraph (C).

11 “(C) PLANS DESCRIBED.—A plan is de-
12 scribed in this subparagraph if, taking into ac-
13 count any predecessor plan—

14 “(i) such plan has been in effect for
15 at least 5 years as of the date the class is
16 closed, and

17 “(ii) during the 5-year period pre-
18 ceding the date the class is closed, there
19 has not been a substantial increase in the
20 coverage or value of the benefits, rights, or
21 features described in subparagraph (A) or
22 in the coverage or benefits under the plan
23 described in subparagraph (B)(iii) (which-
24 ever is applicable).

1 “(D) DETERMINATION OF SUBSTANTIAL
2 INCREASE FOR BENEFITS, RIGHTS, AND FEA-
3 TURES.—In applying subparagraph (C)(ii) for
4 purposes of subparagraph (A)(iii), a plan shall
5 be treated as having had a substantial increase
6 in coverage or value of the benefits, rights, or
7 features described in subparagraph (A) during
8 the applicable 5-year period only if, during such
9 period—

10 “(i) the number of participants cov-
11 ered by such benefits, rights, or features
12 on the date such period ends is more than
13 50 percent greater than the number of
14 such participants on the first day of the
15 plan year in which such period began, or

16 “(ii) such benefits, rights, and fea-
17 tures have been modified by 1 or more
18 plan amendments in such a way that, as of
19 the date the class is closed, the value of
20 such benefits, rights, and features to the
21 closed class as a whole is substantially
22 greater than the value as of the first day
23 of such 5-year period, solely as a result of
24 such amendments.

“(E) DETERMINATION OF SUBSTANTIAL INCREASE FOR AGGREGATE TESTING ON BENEFITS BASIS.—In applying subparagraph (C)(ii) for purposes of subparagraph (B)(iii)(IV), a plan shall be treated as having had a substantial increase in coverage or benefits during the applicable 5-year period only if, during such period—

“(i) the number of participants benefiting under the plan on the date such period ends is more than 50 percent greater than the number of such participants on the first day of the plan year in which such period began, or

“(ii) the average benefit provided to such participants on the date such period ends is more than 50 percent greater than the average benefit provided on the first day of the plan year in which such period began.

“(F) CERTAIN EMPLOYEES DISREGARDED.—For purposes of subparagraphs (D) and (E), any increase in coverage or value or in coverage or benefits, whichever is applicable, which is attributable to such coverage and

1 value or coverage and benefits provided to em-
 2 ployees—

3 “(i) who became participants as a re-
 4 sult of a merger, acquisition, or similar
 5 event which occurred during the 7-year pe-
 6 riod preceding the date the class is closed,
 7 or

8 “(ii) who became participants by rea-
 9 son of a merger of the plan with another
 10 plan which had been in effect for at least
 11 5 years as of the date of the merger,
 12 shall be disregarded, except that clause (ii)
 13 shall apply for purposes of subparagraph (D)
 14 only if, under the merger, the benefits, rights,
 15 or features under 1 plan are conformed to the
 16 benefits, rights, or features of the other plan
 17 prospectively.

18 “(G) RULES RELATING TO AVERAGE BEN-
 19 EFIT.—For purposes of subparagraph (E)—

20 “(i) the average benefit provided to
 21 participants under the plan will be treated
 22 as having remained the same between the
 23 2 dates described in subparagraph (E)(ii)
 24 if the benefit formula applicable to such

1 participants has not changed between such
2 dates, and

3 “(ii) if the benefit formula applicable
4 to 1 or more participants under the plan
5 has changed between such 2 dates, then
6 the average benefit under the plan shall be
7 considered to have increased by more than
8 50 percent only if—

9 “(I) the total amount determined
10 under section 430(b)(1)(A)(i) for all
11 participants benefiting under the plan
12 for the plan year in which the 5-year
13 period described in subparagraph (E)
14 ends, exceeds

15 “(II) the total amount deter-
16 mined under section 430(b)(1)(A)(i)
17 for all such participants for such plan
18 year, by using the benefit formula in
19 effect for each such participant for
20 the first plan year in such 5-year pe-
21 riod,

22 by more than 50 percent. In the case of a
23 CSEC plan (as defined in section 414(y)),
24 the normal cost of the plan (as determined
25 under section 433(j)(1)(B)) shall be used

1 in lieu of the amount determined under
2 section 430(b)(1)(A)(i).

3 “(H) TREATMENT AS SINGLE PLAN.—For
4 purposes of subparagraphs (E) and (G), a plan
5 described in section 413(c) shall be treated as
6 a single plan rather than as separate plans
7 maintained by each participating employer.

8 “(I) SPECIAL RULES.—For purposes of
9 subparagraphs (A)(i) and (B)(iii)(II), the fol-
10 lowing rules shall apply:

11 “(i) In applying section 410(b)(6)(C),
12 the closing of the class of participants shall
13 not be treated as a significant change in
14 coverage under section 410(b)(6)(C)(i)(II).

15 “(ii) 2 or more plans shall not fail to
16 be eligible to be aggregated and treated as
17 a single plan solely by reason of having dif-
18 ferent plan years.

19 “(iii) Changes in the employee popu-
20 lation shall be disregarded to the extent at-
21 tributable to individuals who become em-
22 ployees or cease to be employees, after the
23 date the class is closed, by reason of a
24 merger, acquisition, divestiture, or similar
25 event.

1 “(iv) Aggregation and all other testing
 2 methodologies otherwise applicable under
 3 subsection (a)(4) and section 410(b) may
 4 be taken into account.

5 The rule of clause (ii) shall also apply for pur-
 6 poses of determining whether plans to which
 7 subparagraph (B)(i) applies may be aggregated
 8 and treated as 1 plan for purposes of deter-
 9 mining whether such plans meet the require-
 10 ments of subsection (a)(4) and section 410(b).

11 “(J) SPUN-OFF PLANS.—For purposes of
 12 this paragraph, if a portion of a defined benefit
 13 plan described in subparagraph (A) or (B)(iii)
 14 is spun off to another employer and the spun-
 15 off plan continues to satisfy the requirements
 16 of—

17 “(i) subparagraph (A)(i) or
 18 (B)(iii)(II), whichever is applicable, if the
 19 original plan was still within the 3-year pe-
 20 riod described in such subparagraph at the
 21 time of the spin off, and

22 “(ii) subparagraph (A)(ii) or
 23 (B)(iii)(III), whichever is applicable,

1 the treatment under subparagraph (A) or (B)
2 of the spun-off plan shall continue with respect
3 to such other employer.

4 “(2) TESTING OF DEFINED CONTRIBUTION
5 PLANS.—

6 “(A) TESTING ON A BENEFITS BASIS.—A
7 defined contribution plan shall be permitted to
8 be tested on a benefits basis if—

9 “(i) such defined contribution plan
10 provides make-whole contributions to a
11 closed class of participants whose accruals
12 under a defined benefit plan have been re-
13 duced or eliminated,

14 “(ii) for the plan year of the defined
15 contribution plan as of which the class eli-
16 gible to receive such make-whole contribu-
17 tions closes and the 2 succeeding plan
18 years, such closed class of participants sat-
19 isfies the requirements of section
20 410(b)(2)(A)(i) (determined by applying
21 the rules of paragraph (1)(I)),

22 “(iii) after the date as of which the
23 class was closed, any plan amendment to
24 the defined contribution plan which modi-
25 fies the closed class or the allocations, ben-

efits, rights, and features provided to such closed class does not discriminate significantly in favor of highly compensated employees, and

“(iv) the class was closed before September 21, 2016, or the defined benefit plan under clause (i) is described in paragraph (1)(C) (as applied for purposes of paragraph (1)(B)(iii)(IV)).

“(B) AGGREGATION WITH PLANS INCLUDING MATCHING CONTRIBUTIONS.—

“(i) IN GENERAL.—With respect to 1 or more defined contribution plans described in subparagraph (A), for purposes of determining compliance with subsection (a)(4) and section 410(b), the portion of such plans which provides make-whole contributions or other nonelective contributions may be aggregated and tested on a benefits basis with the portion of 1 or more other defined contribution plans which—

“(I) provides matching contributions (as defined in subsection (m)(4)(A)),

1 “(II) provides annuity contracts
 2 described in section 403(b) which are
 3 purchased with matching contribu-
 4 tions or nonelective contributions, or

5 “(III) consists of an employee
 6 stock ownership plan (within the
 7 meaning of section 4975(e)(7)) or a
 8 tax credit employee stock ownership
 9 plan (within the meaning of section
 10 409(a)).

11 “(ii) SPECIAL RULES FOR MATCHING
 12 CONTRIBUTIONS.—Rules similar to the
 13 rules of paragraph (1)(B)(ii) shall apply
 14 for purposes of clause (i).

15 “(C) SPECIAL RULES FOR TESTING DE-
 16 FINED CONTRIBUTION PLAN FEATURES PRO-
 17 VIDING MATCHING CONTRIBUTIONS TO CERTAIN
 18 OLDER, LONGER SERVICE PARTICIPANTS.—In
 19 the case of a defined contribution plan which
 20 provides benefits, rights, or features to a closed
 21 class of participants whose accruals under a de-
 22 fined benefit plan have been reduced or elimi-
 23 nated, the plan shall not fail to satisfy the re-
 24 quirements of subsection (a)(4) solely by reason
 25 of the composition of the closed class or the

benefits, rights, or features provided to such closed class if the defined contribution plan and defined benefit plan otherwise meet the requirements of subparagraph (A) but for the fact that the make-whole contributions under the defined contribution plan are made in whole or in part through matching contributions.

“(D) SPUN-OFF PLANS.—For purposes of this paragraph, if a portion of a defined contribution plan described in subparagraph (A) or (C) is spun off to another employer, the treatment under subparagraph (A) or (C) of the spun-off plan shall continue with respect to the other employer if such plan continues to comply with the requirements of clauses (ii) (if the original plan was still within the 3-year period described in such clause at the time of the spin off) and (iii) of subparagraph (A), as determined for purposes of subparagraph (A) or (C), whichever is applicable.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) MAKE-WHOLE CONTRIBUTIONS.—Except as otherwise provided in paragraph (2)(C), the term ‘make-whole contributions’ means non-

1 elective allocations for each employee in the
2 class which are reasonably calculated, in a con-
3 sistent manner, to replace some or all of the re-
4 tirement benefits which the employee would
5 have received under the defined benefit plan
6 and any other plan or qualified cash or deferred
7 arrangement under subsection (k)(2) if no
8 change had been made to such defined benefit
9 plan and such other plan or arrangement. For
10 purposes of the preceding sentence, consistency
11 shall not be required with respect to employees
12 who were subject to different benefit formulas
13 under the defined benefit plan.

14 “(B) REFERENCES TO CLOSED CLASS OF
15 PARTICIPANTS.—References to a closed class of
16 participants and similar references to a closed
17 class shall include arrangements under which 1
18 or more classes of participants are closed, ex-
19 cept that 1 or more classes of participants
20 closed on different dates shall not be aggre-
21 gated for purposes of determining the date any
22 such class was closed.

23 “(C) HIGHLY COMPENSATED EMPLOYEE.—
24 The term ‘highly compensated employee’ has

1 the meaning given such term in section
2 414(q).”.

3 (b) PARTICIPATION REQUIREMENTS.—Paragraph
4 (26) of section 401(a) of the Internal Revenue Code of
5 1986 is amended by adding at the end the following new
6 subparagraph:

7 “(I) PROTECTED PARTICIPANTS.—

8 “(i) IN GENERAL.—A plan shall be
9 deemed to satisfy the requirements of sub-
10 paragraph (A) if—

11 “(I) the plan is amended—

12 “(aa) to cease all benefit ac-
13 cruals, or

14 “(bb) to provide future ben-
15 efit accruals only to a closed
16 class of participants,

17 “(II) the plan satisfies subpara-
18 graph (A) (without regard to this sub-
19 paragraph) as of the effective date of
20 the amendment, and

21 “(III) the amendment was adopt-
22 ed before September 21, 2016, or the
23 plan is described in clause (ii).

24 “(ii) PLANS DESCRIBED.—A plan is
25 described in this clause if the plan would

be described in subsection (o)(1)(C), as applied for purposes of subsection (o)(1)(B)(iii)(IV) and by treating the effective date of the amendment as the date the class was closed for purposes of subsection (o)(1)(C).

“(iii) SPECIAL RULES.—For purposes of clause (i)(II), in applying section 410(b)(6)(C), the amendments described in clause (i) shall not be treated as a significant change in coverage under section 410(b)(6)(C)(i)(II).

“(iv) SPUN-OFF PLANS.—For purposes of this subparagraph, if a portion of a plan described in clause (i) is spun off to another employer, the treatment under clause (i) of the spun-off plan shall continue with respect to the other employer.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act, without regard to whether any plan modifications referred to in such amendments are adopted or effective before, on, or after such date of enactment.

1 (2) SPECIAL RULES.—

2 (A) ELECTION OF EARLIER APPLICA-
 3 TION.—At the election of the plan sponsor, the
 4 amendments made by this section shall apply to
 5 plan years beginning after December 31, 2013.

6 (B) CLOSED CLASSES OF PARTICIPANTS.—
 7 For purposes of paragraphs (1)(A)(iii),
 8 (1)(B)(iii)(IV), and (2)(A)(iv) of section 401(o)
 9 of the Internal Revenue Code of 1986 (as added
 10 by this section), a closed class of participants
 11 shall be treated as being closed before Sep-
 12 tember 21, 2016, if the plan sponsor's intention
 13 to create such closed class is reflected in formal
 14 written documents and communicated to par-
 15 ticipants before such date.

16 (C) CERTAIN POST-ENACTMENT PLAN
 17 AMENDMENTS.—A plan shall not be treated as
 18 failing to be eligible for the application of sec-
 19 tion 401(o)(1)(A), 401(o)(1)(B)(iii), or
 20 401(a)(26) of such Code (as added by this sec-
 21 tion) to such plan solely because in the case
 22 of—

23 (i) such section 401(o)(1)(A), the plan
 24 was amended before the date of the enact-
 25 ment of this Act to eliminate 1 or more

benefits, rights, or features, and is further amended after such date of enactment to provide such previously eliminated benefits, rights, or features to a closed class of participants, or

(ii) such section 401(o)(1)(B)(iii) or section 401(a)(26), the plan was amended before the date of the enactment of this Act to cease all benefit accruals, and is further amended after such date of enactment to provide benefit accruals to a closed class of participants.

Any such section shall only apply if the plan otherwise meets the requirements of such section and in applying such section, the date the class of participants is closed shall be the effective date of the later amendment.

SEC. 206. MODIFICATION OF PBGC PREMIUMS FOR CSEC PLANS.

(a) FLAT RATE PREMIUM.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—

1 (1) in clause (i), by striking “plan,” and insert-
 2 ing “plan other than a CSEC plan (as defined in
 3 section 210(f)(1))”;

4 (2) in clause (v), by striking “or” at the end;

5 (3) in clause (vi), by striking the period at the
 6 end and inserting “, or”; and

7 (4) by adding at the end the following new
 8 clause:

9 “(vii) in the case of a CSEC plan (as
 10 defined in section 210(f)(1)), for plan
 11 years beginning after December 31, 2017,
 12 for each individual who is a participant in
 13 such plan during the plan year an amount
 14 equal to the sum of—

15 “(I) the additional premium (if
 16 any) determined under subparagraph
 17 (E), and

18 “(II) \$19.”.

19 (b) VARIABLE RATE PREMIUM.—

20 (1) UNFUNDED VESTED BENEFITS.—

21 (A) IN GENERAL.—Subparagraph (E) of
 22 section 4006(a)(3) of the Employee Retirement
 23 Income Security Act of 1974 (29 U.S.C.
 24 1306(a)(3)) is amended by adding at the end
 25 the following new clause:

“(v) For purposes of clause (ii), in the case of a CSEC plan (as defined in section 210(f)(1)), the term ‘unfunded vested benefits’ means, for plan years beginning after December 31, 2017, the excess (if any) of—

“(I) the funding liability of the plan as determined under section 306(j)(5)(C) for the plan year by only taking into account vested benefits, over

“(II) the fair market value of plan assets for the plan year which are held by the plan on the valuation date.”.

(B) CONFORMING AMENDMENT.—Clause (iii) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking “For purposes” and inserting “Except as provided in clause (v), for purposes”.

(2) APPLICABLE DOLLAR AMOUNT.—

(A) IN GENERAL.—Paragraph (8) of section 4006(a) of such Act (29 U.S.C. 1306(a)) is amended by adding at the end the following new subparagraph:

1 “(E) CSEC PLANS.—In the case of a
 2 CSEC plan (as defined in section 210(f)(1)),
 3 the applicable dollar amount shall be \$9.”.

4 (B) CONFORMING AMENDMENT.—Subpara-
 5 graph (A) of section 4006(a)(8) of such Act (29
 6 U.S.C. 1306(a)(8)) is amended by striking “(B)
 7 and (C)” and inserting “(B), (C), and (E)”.

8 **TITLE III—BENEFITS RELATING**
 9 **TO UNITED STATES TAX COURT**

10 **SEC. 301. THRIFT SAVINGS PLAN CONTRIBUTIONS FOR**
 11 **JUDGES IN THE FEDERAL EMPLOYEES RE-**
 12 **TIREMENT SYSTEM.**

13 (a) IN GENERAL.—Subsection (j)(3)(B) of section
 14 7447 of the Internal Revenue Code of 1986 is amended
 15 to read as follows:

16 “(B) CONTRIBUTIONS FOR BENEFIT OF
 17 JUDGE.—No contributions under section
 18 8432(c) of title 5, United States Code, shall be
 19 made for the benefit of a judge who has filed
 20 an election to receive retired pay under sub-
 21 section (e).”.

22 (b) OFFSET.—Paragraph (3) of section 7447(j) of
 23 the Internal Revenue Code of 1986 is amended by adding
 24 at the end the following new subparagraph:

1 “(F) OFFSET.—In the case of a judge who
 2 receives a distribution from the Thrift Savings
 3 Plan and who later receives retired pay under
 4 subsection (d), the retired pay shall be offset by
 5 an amount equal to the amount of the distribu-
 6 tion which represents the Government’s con-
 7 tribution to the individual’s Thrift Savings Ac-
 8 count during years of service as a full-time judi-
 9 cial officer under the Federal Employees Retirement
 10 System, without regard to earnings attrib-
 11 utable to such amount. Where such an offset
 12 would exceed 50 percent of the retired pay to
 13 be received in the first year, the offset may be
 14 divided equally over the first 2 years in which
 15 the individual receives the annuity.”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to basic pay earned while serving
 18 as a judge of the United States Tax Court on or after
 19 the date of the enactment of this Act.

20 **SEC. 302. CHANGE IN VESTING PERIOD FOR SURVIVOR AN-**
 21 **NUITIES AND WAIVER OF VESTING PERIOD IN**
 22 **THE EVENT OF ASSASSINATION.**

23 (a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINA-
 24 TION.—Subsection (h) of section 7448 of the Internal Rev-
 25 enue Code of 1986 is amended to read as follows:

1 “(h) ENTITLEMENT TO ANNUITY.—

2 “(1) IN GENERAL.—

3 “(A) ANNUITY TO SURVIVING SPOUSE.—If
 4 a judge or magistrate judge of the Tax Court
 5 described in paragraph (2) is survived by a sur-
 6 viving spouse but not by a dependent child,
 7 there shall be paid to such surviving spouse an
 8 annuity beginning with the day of the death of
 9 the judge or magistrate judge of the Tax Court
 10 or following the surviving spouse’s attainment
 11 of age 50, whichever is the later, in an amount
 12 computed as provided in subsection (m).

13 “(B) ANNUITY TO SURVIVING SPOUSE AND
 14 CHILD.—If a judge or magistrate judge of the
 15 Tax Court described in paragraph (2) is sur-
 16 vived by a surviving spouse and dependent child
 17 or children, there shall be paid to such sur-
 18 viving spouse an annuity, beginning on the day
 19 of the death of the judge or magistrate judge
 20 of the Tax Court, in an amount computed as
 21 provided in subsection (m), and there shall also
 22 be paid to or on behalf of each such child an
 23 immediate annuity equal to the lesser of—

24 “(i) 10 percent of the average annual
 25 salary of such judge or magistrate judge of

1 the Tax Court (determined in accordance
2 with subsection (m)), or

3 “(ii) 20 percent of such average an-
4 nual salary, divided by the number of such
5 children.

6 “(C) ANNUITY TO SURVIVING DEPENDENT
7 CHILDREN.—If a judge or magistrate judge of
8 the Tax Court described in paragraph (2)
9 leaves no surviving spouse but leaves a sur-
10 viving dependent child or children, there shall
11 be paid to or on behalf of each such child an
12 immediate annuity equal to the lesser of—

13 “(i) 20 percent of the average annual
14 salary of such judge or magistrate judge of
15 the Tax Court (determined in accordance
16 with subsection (m)), or

17 “(ii) 40 percent of such average an-
18 nual salary divided by the number of such
19 children.

20 “(2) COVERED JUDGES.—Paragraph (1) applies
21 to any judge or magistrate judge of the Tax Court
22 electing under subsection (b)—

23 “(A) who dies while a judge or magistrate
24 judge of the Tax Court after having rendered at
25 least 18 months of civilian service computed as

prescribed in subsection (n), for the last 18 months of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

“(B) who dies by assassination after having rendered less than 18 months of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

“(3) TERMINATION OF ANNUITY.—

“(A) SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse’s death or such surviving spouse’s remarriage before attaining age 55.

“(B) SURVIVING CHILD.—Any annuity payable to a child under this subsection shall be terminable upon the earliest of—

“(i) the child attainment of age 18,

“(ii) the child’s marriage, or

“(iii) the child’s death,

1 except that if such child is incapable of self-sup-
2 port by reason of mental or physical disability
3 the child's annuity shall be terminable only
4 upon death, marriage, or recovery from such
5 disability.

6 “(C) DEPENDENT CHILD AFTER DEATH
7 OF SURVIVING SPOUSE.—In case of the death of
8 a surviving spouse of a judge or magistrate
9 judge of the Tax Court leaving a dependent
10 child or children of the judge or magistrate
11 judge of the Tax Court surviving such spouse,
12 the annuity of such child or children shall be
13 recomputed and paid as provided in paragraph
14 (1)(C).

15 “(D) RECOMPUTATION WITH RESPECT TO
16 OTHER DEPENDENT CHILDREN.—In any case
17 in which the annuity of a dependent child is
18 terminated under this subsection, the annuities
19 of any remaining dependent child or children
20 based upon the service of the same judge or
21 magistrate judge of the Tax Court shall be re-
22 computed and paid as though the child whose
23 annuity was so terminated had not survived
24 such judge.

1 “(E) SPECIAL RULE FOR ASSASSINATED
 2 JUDGES.—In the case of a survivor of a judge
 3 or magistrate judge of the Tax Court described
 4 in paragraph (2)(B), there shall be deducted
 5 from the annuities otherwise payable under this
 6 section an amount equal to the amount of sal-
 7 ary deductions that would have been made if
 8 such deductions had been made for 18 months
 9 prior to the death of the judge or magistrate
 10 judge of the Tax Court.”.

11 (b) DEFINITION OF ASSASSINATION.—Section
 12 7448(a) of the Internal Revenue Code of 1986 is amended
 13 by adding at the end the following new paragraph:

14 “(10) The terms ‘assassinated’ and ‘assassina-
 15 tion’ mean the killing of a judge or magistrate judge
 16 of the Tax Court that is motivated by the perform-
 17 ance by the judge or magistrate judge of the Tax
 18 Court of his or her official duties.”.

19 (c) DETERMINATION OF ASSASSINATION.—Sub-
 20 section (i) of section 7448 of the Internal Revenue Code
 21 of 1986 is amended—

22 (1) by striking “OF DEPENDENCY AND DIS-
 23 ABILITY.—Questions” and inserting “BY CHIEF
 24 JUDGE.—

1 “(1) DEPENDENCY AND DISABILITY.—Ques-
2 tions”; and

3 (2) by adding at the end the following new
4 paragraph:

5 “(2) ASSASSINATION.—The chief judge shall
6 determine whether the killing of a judge or mag-
7 istrate judge of the Tax Court was an assassination,
8 subject to review only by the Tax Court. The head
9 of any Federal agency that investigates the killing of
10 a judge or magistrate judge of the Tax Court shall
11 provide to the chief judge any information that
12 would assist the chief judge in making such a deter-
13 mination.”.

14 (d) COMPUTATION OF ANNUITIES.—Subsection (m)
15 of section 7448 of the Internal Revenue Code of 1986 is
16 amended—

17 (1) by striking “ANNUITIES.—The annuity”
18 and inserting “ANNUITIES.—

19 “(1) IN GENERAL.—The annuity”;

20 (2) by striking “the sum of (1) 1.5 percent”
21 and inserting “the sum of—

22 “(A) 1.5 percent”;

23 (3) by striking “and (2) three-fourths of 1 per-
24 cent” and inserting “and

25 “(B) three-fourths of 1 percent”;

1 (4) by striking “prior allowable service, except
2 that” and inserting “prior allowable service,
3 “except that”; and

4 (5) by adding at the end the following new
5 paragraph:

6 “(2) ASSASSINATED JUDGES AND MAGISTRATE
7 JUDGES OF THE TAX COURT.—In the case of a
8 judge or magistrate judge of the Tax Court who is
9 assassinated and who has served less than 18
10 months, the annuity of the surviving spouse of such
11 judge or magistrate judge of the Tax Court shall be
12 based upon the average annual salary received by
13 such judge or magistrate judge of the Tax Court for
14 judicial service.”.

15 (e) OTHER BENEFITS.—Section 7448 of the Internal
16 Revenue Code of 1986 is amended by adding at the end
17 the following new subsection:

18 “(u) OTHER BENEFITS IN CASE OF ASSASSINA-
19 TION.—In the case of a judge or magistrate judge of the
20 Tax Court who is assassinated, an annuity shall be paid
21 under this section notwithstanding a survivor’s eligibility
22 for or receipt of benefits under chapter 81 of title 5,
23 United States Code, except that the annuity for which a
24 surviving spouse is eligible under this section shall be re-
25 duced to the extent that the total benefits paid under this

1 section and chapter 81 of that title for any year would
 2 exceed the current salary for that year of the office of the
 3 judge or magistrate judge of the Tax Court.”.

4 **SEC. 303. COORDINATION OF RETIREMENT AND SURVIVOR**
 5 **ANNUITY WITH THE FEDERAL EMPLOYEES**
 6 **RETIREMENT SYSTEM.**

7 (a) RETIREMENT.—Section 7447 of the Internal Rev-
 8 enue Code of 1986 is amended—

9 (1) by striking “section 8331(8)” in subsection
 10 (g)(2)(C) and inserting “sections 8331(8) and
 11 8401(19)”; and

12 (2) by striking “Civil Service Commission” both
 13 places it appears in subsection (i)(2) and inserting
 14 “Office of Personnel Management”.

15 (b) ANNUITIES TO SURVIVING SPOUSES AND DE-
 16 PENDENT CHILDREN.—Section 7448 of the Internal Rev-
 17 enue Code of 1986 is amended—

18 (1) by striking “section 8332” in subsection (d)
 19 and inserting “sections 8332 and 8411”; and

20 (2) by striking “section 8332” in subsection (n)
 21 and inserting “sections 8332 and 8411”.

1 **SEC. 304. LIMIT ON TEACHING COMPENSATION OF RE-**
 2 **TIRED JUDGES.**

3 (a) IN GENERAL.—Section 7447 of the Internal Rev-
 4 enue Code of 1986 is amended by adding at the end the
 5 following new subsection:

6 “(k) TEACHING COMPENSATION OF RETIRED
 7 JUDGES.—For purposes of the limitation under section
 8 501(a) of the Ethics in Government Act of 1978 (5 U.S.C.
 9 App.), any compensation for teaching approved under sec-
 10 tion 502(a)(5) of such Act shall not be treated as outside
 11 earned income when received by a judge of the United
 12 States Tax Court who has retired under subsection (b)
 13 for teaching performed during any calendar year for which
 14 such a judge has met the requirements of subsection (c),
 15 as certified by the chief judge.”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to any individual serving as a re-
 18 tired judge of the United States Tax Court on or after
 19 the date of the enactment of this Act.

20 **SEC. 305. GENERAL PROVISIONS RELATING TO MAG-**
 21 **ISTRATE JUDGES OF THE TAX COURT.**

22 (a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO
 23 MAGISTRATE JUDGE OF THE TAX COURT.—The heading
 24 of section 7443A of the Internal Revenue Code of 1986
 25 is amended by striking “**SPECIAL TRIAL JUDGES**” and

1 inserting “**MAGISTRATE JUDGES OF THE TAX**
 2 **COURT**”.

3 (b) APPOINTMENT, TENURE, AND REMOVAL.—Sub-
 4 section (a) of section 7443A of the Internal Revenue Code
 5 of 1986 is amended to read as follows:

6 “(a) APPOINTMENT, TENURE, AND REMOVAL.—

7 “(1) APPOINTMENT.—The chief judge may,
 8 from time to time, appoint and reappoint magistrate
 9 judges of the Tax Court for a term of 8 years. The
 10 magistrate judges of the Tax Court shall proceed
 11 under such rules as may be promulgated by the Tax
 12 Court.

13 “(2) REMOVAL.—

14 “(A) IN GENERAL.—Except as provided in
 15 subparagraph (B), removal of a magistrate
 16 judge of the Tax Court during the term for
 17 which such magistrate judge is appointed shall
 18 be only for incompetency, misconduct, neglect
 19 of duty, or physical or mental disability. Re-
 20 moval shall not occur unless a majority of all
 21 the judges of the Tax Court concur in the order
 22 of removal. Before any order of removal shall
 23 be entered, a full specification of the charges
 24 shall be furnished to the magistrate judge of
 25 the Tax Court, and such magistrate judge shall

1 be accorded by the judges of the Tax Court an
 2 opportunity to be heard on the charges.

3 “(B) TERMINATION OF OFFICE.—The of-
 4 fice of a magistrate judge of the Tax Court
 5 shall be terminated if the judges of the Tax
 6 Court determine that the services performed by
 7 such magistrate judge of the Tax Court are no
 8 longer needed.”.

9 (c) SALARY.—Subsection (d) of section 7443A of the
 10 Internal Revenue Code of 1986 is amended to read as fol-
 11 lows:

12 “(d) SALARY.—Each magistrate judge of the Tax
 13 Court shall receive salary—

14 “(1) at a rate equal to 92 percent of the rate
 15 for judges of the Tax Court, and

16 “(2) in the same installments as such judges.”.

17 (d) EXEMPTION FROM FEDERAL LEAVE PROVI-
 18 SIONS.—Section 7443A of the Internal Revenue Code of
 19 1986 is amended by adding at the end the following new
 20 subsection:

21 “(f) EXEMPTION FROM FEDERAL LEAVE PROVI-
 22 SIONS.—

23 “(1) IN GENERAL.—A magistrate judge of the
 24 Tax Court shall be exempt from the provisions of

1 subchapter I of chapter 63 of title 5, United States
2 Code.

3 “(2) TREATMENT OF UNUSED LEAVE.—

4 “(A) AFTER SERVICE AS MAGISTRATE
5 JUDGE OF THE TAX COURT.—If an individual
6 who is exempted under paragraph (1) from the
7 subchapter referred to in such paragraph was
8 previously subject to such subchapter and, with-
9 out a break in service, again becomes subject to
10 such subchapter on completion of the individ-
11 ual’s service as a magistrate judge of the Tax
12 Court, the unused annual leave and sick leave
13 standing to the individual’s credit at the time
14 such individual became a magistrate judge of
15 the Tax Court is deemed to have remained to
16 the individual’s credit.

17 “(B) COMPUTATION OF ANNUITY.—In
18 computing an annuity under section 8339 or
19 8415 of title 5, United States Code, the total
20 service of an individual specified in subpara-
21 graph (A) who retires on an immediate annuity
22 or dies leaving a survivor or survivors entitled
23 to an annuity includes, without regard to the
24 limitations imposed by subsection (f) of section
25 8339 of such title 5, the days of unused sick

1 leave standing to the individual's credit at the
 2 time such individual became a magistrate judge
 3 of the Tax Court, except that such days will not
 4 be counted in determining average pay or annu-
 5 ity eligibility.

6 “(C) LUMP SUM PAYMENT.—Any accumu-
 7 lated and current accrued annual leave or vaca-
 8 tion balances credited to a magistrate judge of
 9 the Tax Court as of the date of the enactment
 10 of this subsection shall be paid in a lump sum
 11 at the time of separation from service pursuant
 12 to the provisions and restrictions set forth in
 13 section 5551 of such title 5 and related provi-
 14 sions referred to in such section.”.

15 (e) CONTEMPT AUTHORITY.—Section 7443A of the
 16 Internal Revenue Code of 1986, as amended by this sec-
 17 tion, is amended by adding at the end the following new
 18 subsection:

19 “(g) INCIDENTAL POWERS.—A magistrate judge of
 20 the Tax Court appointed under this section shall have the
 21 power to punish for contempt of the authority of the Tax
 22 Court as provided in section 7456(c), except the sentence
 23 imposed by such a magistrate judge of the Tax Court for
 24 any contempt shall not exceed the penalties for a Class
 25 C misdemeanor as set forth in sections 3571(b)(6) and

1 3581(b)(8) of title 18, United States Code. This sub-
 2 section shall not be construed to limit the authority of a
 3 magistrate judge of the Tax Court to order sanctions
 4 under any other statute or any rule of the Tax Court pre-
 5 scribed pursuant to section 7453.”.

6 (f) CONFORMING AMENDMENTS.—

7 (1) The heading of subsection (b) of section
 8 7443A of the Internal Revenue Code of 1986 is
 9 amended by striking “SPECIAL TRIAL JUDGES” and
 10 inserting “MAGISTRATE JUDGES OF THE TAX
 11 COURT”.

12 (2) Subsection (b) of section 7443A of such
 13 Code is amended by striking “special trial judges of
 14 the court” and inserting “magistrate judges of the
 15 Tax Court”.

16 (3) Subsection (c) of section 7443A of such
 17 Code is amended by striking “special trial judge”
 18 and inserting “magistrate judge of the Tax Court”.

19 (4) Subsection (e) of section 7443A of such
 20 Code is amended by striking “special trial judges”
 21 and inserting “magistrate judges of the Tax Court”.

22 (5) The item relating to section 7443A in the
 23 table of sections for part I of subchapter C of chap-
 24 ter 76 of such Code is amended to read as follows:

“Sec. 7443A. Magistrate judges of the Tax Court.”.

1 (6) The heading of section 7448 of such Code
 2 is amended by striking “**SPECIAL TRIAL**
 3 **JUDGES**”and inserting “**MAGISTRATE JUDGES**
 4 **OF THE TAX COURT**”.

5 (7) Section 7448 of such Code is amended—

6 (A) by striking “special trial judge’s” each
 7 place it appears in subsections (a)(6), (c)(1),
 8 (d), and (m)(1) and inserting “magistrate judge
 9 of the Tax Court’s”; and

10 (B) by striking “special trial judge” each
 11 place it appears other than in subsection (n)
 12 and inserting “magistrate judge of the Tax
 13 Court”.

14 (8) Subsection (n) of section 7448 of such Code
 15 is amended to read as follows:

16 “(n) INCLUDIBLE SERVICE.—Subject to the provi-
 17 sions of subsection (d), the years of service of a judge or
 18 magistrate judge of the Tax Court which are allowable as
 19 the basis for calculating the amount of the annuity of such
 20 judge or magistrate judge’s surviving spouse shall include
 21 the judge or magistrate judge’s years of service—

22 “(1) as a judge or magistrate judge of the Tax
 23 Court, a special trial judge of the Tax Court, or a
 24 judge of the Tax Court of the United States,

1 “(2) pursuant to any appointment under sec-
2 tion 7443A,

3 “(3) as a Senator, Representative, Delegate, or
4 Resident Commissioner in Congress,

5 “(4) as a member of the Armed Forces of the
6 United States (not including any service for which
7 credit is allowed for purposes of retirement or re-
8 tired pay under any other provision of law), and

9 “(5) in any other civilian service within the pur-
10 view of section 8332 of title 5, United States Code.
11 For purposes of paragraph (4), not more than 5 years of
12 service shall be taken into account.”.

13 (9) The item relating to section 7448 in the
14 table of sections for part I of subchapter C of chap-
15 ter 76 of such Code is amended to read as follows:

“Sec. 7448. Annuities to surviving spouses and dependent children of judges
and magistrate judges of the Tax Court.”.

16 (10) Subsection (a) of section 7456 of such
17 Code is amended—

18 (A) by striking “special trial judge” each
19 place it appears and inserting “magistrate
20 judge”, and

21 (B) by striking “(or by the clerk” and in-
22 serting “of the Tax Court (or by the clerk”.

1 (11) Subsection (a) of section 7466 of such
2 Code is amended by striking “special trial judge”
3 and inserting “magistrate judge”.

4 (12) Section 7470A of such Code is amended
5 by striking “special trial judges” both places it ap-
6 pears in subsections (a) and (b) and inserting “mag-
7 istrate judges”.

8 (13) Subparagraph (A) of section 7471(a)(2) of
9 such Code is amended by striking “special trial
10 judges” and inserting “magistrate judges”.

11 (14) Subsection (c) of section 7471 of such
12 Code is amended—

13 (A) by striking “SPECIAL TRIAL JUDGES”
14 in the heading and inserting “MAGISTRATE
15 JUDGES OF THE TAX COURT”; and

16 (B) by striking “special trial judges” and
17 inserting “magistrate judges”.

18 (g) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to individuals serving as spe-
21 cial trial judges of the United States Tax Court on
22 or after the day before the date of enactment of this
23 Act.

24 (2) APPOINTMENT SAVINGS PROVISION.—Any
25 individual serving as a special trial judge of the

1 United States Tax Court as of the day before the
2 date of the enactment of this Act shall be considered
3 to have been appointed as a magistrate judge of the
4 Tax Court under section 7443A of the Internal Rev-
5 enue Code of 1986 on such date of enactment, and
6 service as a special trial judge of the Tax Court be-
7 fore such date of enactment shall be considered to
8 be service as a magistrate judge of the Tax Court
9 for purposes of any provision of law relating to
10 length of service.

11 **SEC. 306. LIFE INSURANCE FOR MAGISTRATE JUDGES OF**
12 **THE TAX COURT AGE 65 OR OLDER.**

13 Section 7472 of the Internal Revenue Code of 1986
14 is amended by striking “its judges” in the second sentence
15 and inserting “the judges and magistrate judges of the
16 Tax Court”.

17 **SEC. 307. RETIREMENT AND ANNUITY PROGRAM.**

18 (a) RETIREMENT AND ANNUITY PROGRAM.—Part I
19 of subchapter C of chapter 76 of the Internal Revenue
20 Code of 1986 is amended by inserting after section 7443A
21 the following new section:

22 **“SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF**
23 **THE TAX COURT.**

24 “(a) RETIREMENT.—

1 “(1) IN GENERAL.—Each magistrate judge of
2 the Tax Court who makes an election under this sec-
3 tion shall receive an annuity at the same rate and
4 in the same manner as magistrate judges of the dis-
5 trict courts of the United States pursuant to section
6 377 of title 28, United States Code.

7 “(2) RULES OF APPLICATION.—For purposes of
8 subsection (a), section 377 of title 28, United States
9 Code, shall be applied with the following modifica-
10 tions:

11 “(A) By substituting—

12 “(i) ‘magistrate judge of the Tax
13 Court’ for ‘judicial official’, ‘judicial offi-
14 cer’, and ‘magistrate judge’ each place
15 such terms appear,

16 “(ii) ‘magistrate judge of the Tax
17 Court’s’ for ‘magistrate judge’s’ each place
18 it appears,

19 “(iii) ‘chief judge of the Tax Court’
20 for ‘Administrative Office of the United
21 States Courts’, ‘Director of the Adminis-
22 trative Office of the United States Courts’,
23 ‘Director’, and ‘chief judge of the district
24 court’ each place such terms appear,

1 “(iv) ‘Tax Court Judicial Officers’ Re-
 2 tirement Fund’ for ‘Judicial Officers’ Re-
 3 tirement Fund’ each place it appears,

4 “(v) ‘under section 7443A of the In-
 5 ternal Revenue Code of 1986’ for ‘under
 6 section 631 of this title’ in subsection
 7 (h)(2),

8 “(vi) ‘under section 7443C of the In-
 9 ternal Revenue Code of 1986’ for ‘under
 10 section 155(b), 375, or 636(h) of this title’
 11 each place it appears in paragraphs (2)
 12 and (3) of subsection (m), and

13 “(vii) ‘from the date of appointment,
 14 for those individuals appointed pursuant to
 15 section 7443A of the Internal Revenue
 16 Code of 1986 prior to, and in active service
 17 on, the date of enactment of the Retire-
 18 ment Enhancement and Savings Act of
 19 2018’ for ‘on or after October 1, 1979’ in
 20 subsection (h).

21 “(B) By disregarding subsection (m)(2)
 22 and subsection (o).

23 “(b) 1-YEAR FORFEITURE FOR FAILURE TO PER-
 24 FORM JUDICIAL DUTIES.—Subject to subparagraph (B)
 25 of section 377(m)(1) of title 28, United States Code, any

1 magistrate judge of the Tax Court who retires under this
 2 section and who fails to perform judicial duties required
 3 of such individual by section 7443C shall forfeit all rights
 4 to an annuity under this section for a 1-year period which
 5 begins on the 1st day on which such individual fails to
 6 perform such duties.

7 “(c) TAX COURT JUDICIAL OFFICERS’ RETIREMENT
 8 FUND.—

9 “(1) ESTABLISHMENT.—There is established in
 10 the Treasury of the United States a fund which
 11 shall be known as the ‘Tax Court Judicial Officers’
 12 Retirement Fund’. The Fund is appropriated for the
 13 payment of annuities, refunds, and other payments
 14 under this section.

15 “(2) INVESTMENT OF FUND.—The Secretary
 16 shall invest, in interest-bearing securities of the
 17 United States, such currently available portions of
 18 the Tax Court Judicial Officers’ Retirement Fund as
 19 are not immediately required for payments from the
 20 Fund. The income derived from these investments
 21 constitutes a part of the Fund.

22 “(3) UNFUNDED LIABILITY.—

23 “(A) IN GENERAL.—Not later than the
 24 close of each fiscal year, there shall be depos-
 25 ited in the Tax Court Judicial Officers’ Retire-

ment Fund amounts required to reduce to zero the unfunded liability, if any, of such Fund.

“(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term ‘unfunded liability’ means the amount estimated by the Secretary to be equal to the excess (as of the close of the fiscal year involved) of—

“(i) the present value of all benefits payable from the Tax Court Judicial Officers’ Retirement Fund, over

“(ii) the sum of—

“(I) the present value of future deductions to be withheld under this section from the basic pay of magistrate judges of the Tax Court, plus

“(II) the balance in such Fund as of the close of such fiscal year.

“(d) PARTICIPATION IN THRIFT SAVINGS PLAN.—

“(1) ELECTION TO CONTRIBUTE.—A magistrate judge of the Tax Court may elect to contribute out of such individual’s basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

“(2) APPLICABILITY OF TITLE 5 PROVISIONS.—

Except as otherwise provided in this subsection, the

1 provisions of subchapters III and VII of chapter 84
 2 of such title 5 shall apply with respect to a mag-
 3 istrate judge of the Tax Court who makes an elec-
 4 tion under paragraph (1).

5 “(3) SPECIAL RULES.—

6 “(A) AMOUNT CONTRIBUTED.—The
 7 amount contributed by a magistrate judge of
 8 the Tax Court to the Thrift Savings Plan in
 9 any pay period shall not exceed the maximum
 10 percentage of such magistrate judge’s basic pay
 11 for such period as allowable under section
 12 8440f of such title 5.

13 “(B) CONTRIBUTIONS FOR BENEFIT OF
 14 MAGISTRATE JUDGE OF THE TAX COURT.—No
 15 contributions under section 8432(c) of such
 16 title 5 shall be made for the benefit of a mag-
 17 istrate judge of the Tax Court who has filed an
 18 election to receive an annuity under this sec-
 19 tion.

20 “(C) APPLICABILITY OF RULES RELATING
 21 TO ANNUITY OF A CHILD.—Section 8433(b) of
 22 such title 5 applies with respect to a magistrate
 23 judge of the Tax Court who makes an election
 24 under paragraph (1) and who—

1 “(i) retires entitled to an immediate
2 annuity under this section (including a dis-
3 ability annuity under this section),

4 “(ii) retires before attaining age 65
5 but is entitled, upon attaining age 65, to
6 an annuity under this section, or

7 “(iii) retires before becoming entitled
8 to an immediate annuity, or an annuity
9 upon attaining age 65, under this section.

10 “(D) RETIREMENT AS SEPARATION FROM
11 SERVICE.—With respect to a magistrate judge
12 of the Tax Court to whom this subsection ap-
13 plies, retirement under this section is a separa-
14 tion from service for purposes of subchapters
15 III and VII of chapter 84 of such title 5.

16 “(4) DEFINITIONS.—For purposes of this sub-
17 section, the terms ‘retirement’ and ‘retire’ include
18 removal from office under section 7443A(a)(2) on
19 the sole ground of mental or physical disability.

20 “(5) OFFSET.—In the case of a magistrate
21 judge of the Tax Court who receives a distribution
22 from the Thrift Savings Plan and who later receives
23 an annuity under this section, the annuity shall be
24 offset by an amount equal to the amount which rep-
25 resents the Government’s contribution to the individ-

1 ual's Thrift Savings Account during years of service
2 as a full-time judicial officer under the Federal Em-
3 ployees Retirement System, without regard to earn-
4 ings attributable to such amount. Where such an
5 offset would exceed 50 percent of the annuity to be
6 received in the first year, the offset may be divided
7 equally over the first 2 years in which the individual
8 receives the annuity.

9 “(6) EXCEPTION.—Notwithstanding clauses (i)
10 and (ii) of paragraph (3)(C), if any magistrate judge
11 of the Tax Court retires under circumstances mak-
12 ing such magistrate judge of the Tax Court eligible
13 to make an election under subsection (b) of section
14 8433 of such title 5, and the nonforfeitable account
15 balance of such magistrate judge of the Tax Court
16 is less than an amount which the Executive Director
17 of the Office of Personnel Management prescribes by
18 regulation, the Executive Director shall pay the non-
19 forfeitable account balance to the participant in a
20 single payment.

21 “(e) COORDINATION WITH TITLE 5.—A magistrate
22 judge of the Tax Court who elects to receive an annuity
23 under this section—

1 “(1) shall not be subject to deductions and con-
 2 tributions otherwise required by section 8334(a) of
 3 title 5 United States Code,

4 “(2) shall be excluded from the application of
 5 chapter 84 (other than subchapters III and VII) of
 6 such title 5, and

7 “(3) is entitled to a lump-sum credit under sec-
 8 tion 8342(a) or 8424 of such title 5, as the case
 9 may be.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 3121(b)(5)(E) of the Internal Rev-
 12 enue Code of 1986 is amended by inserting “or
 13 magistrate judge” before “of the United States Tax
 14 Court”.

15 (2) Section 210(a)(5)(E) of the Social Security
 16 Act (42 U.S.C. 410(a)(5)(E)) is amended by insert-
 17 ing “or a magistrate judge of the Tax Court who
 18 files an election under section 7443B(a) of the Inter-
 19 nal Revenue Code of 1986” after “of the United
 20 States Tax Court”.

21 (3) Section 7448(b)(2) of the Internal Revenue
 22 Code of 1986 is amended to read as follows:

23 “(2) MAGISTRATE JUDGES OF THE TAX
 24 COURT.—Any magistrate judge of the Tax Court
 25 may by written election filed with the chief judge

1 bring himself or herself within the purview of this
 2 section. Such election shall be filed while such indi-
 3 vidual is a magistrate judge of the Tax Court.”.

4 (c) CLERICAL AMENDMENT.—The table of sections
 5 for part I of subchapter C of chapter 76 of the Internal
 6 Revenue Code of 1986 is amended by inserting after the
 7 item relating to section 7443A the following new item:

“Sec. 7443B. Retirement for magistrate judges of the Tax Court.”.

8 (d) EFFECTIVE DATE.—The amendments made by
 9 this section shall take effect on the date of the enactment
 10 of this Act.

11 **SEC. 308. PROVISIONS FOR RECALL.**

12 (a) IN GENERAL.—Part I of subchapter C of chapter
 13 76 of the Internal Revenue Code of 1986, as amended by
 14 section 307, is amended by inserting after section 7443B
 15 the following new section:

16 **“SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX**
 17 **COURT.**

18 “(a) RECALLING OF RETIRED MAGISTRATE JUDGES
 19 OF THE TAX COURT.—Any individual who has retired
 20 pursuant to section 7443B or the applicable provisions of
 21 title 5 or 28, United States Code, upon reaching the age
 22 and service requirements established under such titles 5
 23 and 28, may be called upon by the chief judge to perform
 24 such judicial duties with the Tax Court as may be re-
 25 quested of such individual for a period or periods specified

1 by the chief judge, except that in the case of any such
 2 individual—

3 “(1) the aggregate of such periods in any 1 cal-
 4 endar year shall not (without the consent of such in-
 5 dividual) exceed 90 calendar days, and

6 “(2) such individual shall be relieved of per-
 7 forming such duties during any period in which ill-
 8 ness or disability precludes the performance of such
 9 duties.

10 Any act, or failure to act, by an individual performing ju-
 11 dicial duties pursuant to this subsection shall have the
 12 same force and effect as if it were the act (or failure to
 13 act) of a magistrate judge of the Tax Court.

14 “(b) COMPENSATION.—For the year in which a pe-
 15 riod of recall occurs, the magistrate judge of the Tax
 16 Court shall receive, in addition to the annuity provided
 17 under the provisions of section 7443B, an amount equal
 18 to the difference between that annuity and the current sal-
 19 ary of the office to which the magistrate judge of the Tax
 20 Court is recalled (and allowances for travel and other ex-
 21 penses of the magistrate judge of the Tax Court). The
 22 annuity for years after the year in which a period of recall
 23 occurs of the magistrate judge of the Tax Court who com-
 24 pletes such a period of service, who is not recalled in a
 25 subsequent year, and who retired under section 7443B,

1 shall be equal to the salary in effect at the end of the
 2 year in which the period of recall occurred for the office
 3 from which such magistrate judge of the Tax Court re-
 4 tired.

5 “(c) RULEMAKING AUTHORITY.—The provisions of
 6 this section shall be implemented under such rules and
 7 regulations as may be promulgated by the Tax Court.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
 9 for part I of subchapter C of chapter 76 of the Internal
 10 Revenue Code of 1986, as amended by section 307, is
 11 amended by inserting after the item relating to section
 12 7443B the following new item:

“Sec. 7443C. Recall of magistrate judges of the Tax Court.”.

13 **TITLE IV—OTHER BENEFITS**

14 **SEC. 401. BENEFITS PROVIDED TO VOLUNTEER FIRE-** 15 **FIGHTERS AND EMERGENCY MEDICAL RE-** 16 **SPONDERS.**

17 (a) INCREASE IN DOLLAR LIMITATION ON QUALI-
 18 FIED PAYMENTS.—Subparagraph (B) of section
 19 139B(c)(2) of the Internal Revenue Code of 1986 is
 20 amended by striking “\$30” and inserting “\$50”.

21 (b) EXTENSION.—Subsection (d) of section 139B of
 22 the Internal Revenue Code of 1986 is amended by striking
 23 “beginning after December 31, 2010.” and inserting “be-
 24 ginning—

1 “(1) after December 31, 2010, and before Jan-
 2 uary 1, 2019, or

3 “(2) after December 31, 2019.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 December 31, 2018.

7 **TITLE V—REVENUE PROVISIONS**

8 **SEC. 501. MODIFICATIONS OF REQUIRED DISTRIBUTION** 9 **RULES FOR PENSION PLANS.**

10 (a) MODIFICATION OF RULES WHERE EMPLOYEE
 11 DIES BEFORE ENTIRE DISTRIBUTION.—

12 (1) IN GENERAL.—Section 401(a)(9) of the In-
 13 ternal Revenue Code of 1986 is amended by adding
 14 at the end the following new subparagraph

15 “(H) SPECIAL RULES FOR CERTAIN DE-
 16 FINED CONTRIBUTION PLANS.—

17 “(i) IN GENERAL.—In the case of dis-
 18 tributions from a defined contribution
 19 plan, a trust forming part of such plan
 20 shall not constitute a qualified trust under
 21 this section unless the plan provides that,
 22 if—

23 “(I) an employee dies before the
 24 distribution of the employee’s interest
 25 (whether or not such distribution has

1 begun in accordance with subpara-
2 graph (A)), and

3 “(II) the aggregate account bal-
4 ances to the credit of the employee
5 under all defined contribution plans,
6 determined as of the date of the em-
7 ployee’s death, exceeds \$450,000,
8 so much of the entire interest of the em-
9 ployee as exceeds the dollar amount in sub-
10 clause (II) will be distributed within 5
11 years after the death of such employee.

12 “(ii) ALLOCATION OF LIMITATION.—If
13 an employee has an account under more
14 than 1 defined contribution plan, the
15 \$450,000 amount under clause (i)(II) shall
16 be allocated among all such plans, as pro-
17 vided in regulations prescribed by the Sec-
18 retary, for purposes of applying clause (i).

19 “(iii) TREATMENT OF REMAINING
20 AMOUNT.—The portion of the employee’s
21 interest distributed under clause (i) shall
22 not be taken into account for purposes of
23 determining the rapidity or the method of
24 distribution of any portion of the interest

1 of the employee to which clause (i) does
2 not apply.

3 “(iv) MULTIPLE BENEFICIARIES.—In
4 the case of an employee who has more
5 than 1 beneficiary, the amount of the por-
6 tion required to be distributed under clause
7 (i) which shall be treated as payable to (or
8 for the benefit of) such beneficiary is the
9 amount which bears the same ratio to the
10 total amount of such portion as—

11 “(I) the portion of the employee’s
12 entire interest (determined as of the
13 date of the employee’s death) which is
14 payable to (or for the benefit of) such
15 beneficiary, bears to

16 “(II) the amount of the employ-
17 ee’s entire interest (so determined).

18 “(v) EXCEPTION FOR ELIGIBLE DES-
19 IGNATED BENEFICIARIES.—If—

20 “(I) any portion of the employ-
21 ee’s interest is payable to (or for the
22 benefit of) an eligible designated bene-
23 ficiary,

24 “(II) such portion will be distrib-
25 uted (in accordance with regulations)

1 over the life of such eligible des-
2 ignated beneficiary (or over a period
3 not extending beyond the life expect-
4 ancy of such beneficiary), and

5 “(III) such distributions begin
6 not later than 1 year after the date of
7 the employee’s death or such later
8 date as the Secretary may by regula-
9 tions prescribe,

10 for purposes of clause (i), the portion re-
11 ferred to in subclause (I) shall be treated
12 as distributed on the date on which such
13 distributions begin.

14 “(vi) SPECIAL RULE FOR SURVIVING
15 SPOUSE OF EMPLOYEE.—If the eligible
16 designated beneficiary is the surviving
17 spouse of the employee—

18 “(I) the date on which the dis-
19 tributions are required to begin under
20 clause (v)(III) shall not be earlier
21 than the date on which the employee
22 would have attained age 70½, and

23 “(II) if the surviving spouse dies
24 before the distributions to such spouse
25 begin, this subparagraph shall be ap-

1 plied as if the surviving spouse were
2 the employee.

3 “(vii) RULES UPON DEATH OF ELIGI-
4 BLE DESIGNATED BENEFICIARY.—If an el-
5 igible designated beneficiary dies before the
6 portion of the employee’s interest to which
7 clause (i) applies which is payable to (or
8 for the benefit of) such eligible designated
9 beneficiary is entirely distributed, the ex-
10 ception under clause (v) shall not apply to
11 any beneficiary of such eligible designated
12 beneficiary and the remainder of such por-
13 tion shall be distributed within 5 years
14 after the death of such beneficiary.

15 “(viii) COORDINATION WITH INDIVIDUAL RETIREMENT PLANS.—For pur-
16 poses of applying the provisions of this
17 subparagraph and subsections (a)(6) and
18 (b)(3) of section 408, individual retirement
19 plans shall be treated as defined contribu-
20 tion plans in determining the aggregate ac-
21 count balances to the credit of the em-
22 ployee under all defined contribution plans
23 and the amount required to be distributed
24

1 to each beneficiary under such provi-
2 sions.”.

3 (2) DEFINITION OF ELIGIBLE DESIGNATED
4 BENEFICIARY.—Section 401(a)(9)(E) of such Code
5 is amended to read as follows:

6 “(E) DEFINITIONS AND RULES RELATING
7 TO DESIGNATED BENEFICIARY.—For purposes
8 of this paragraph—

9 “(i) DESIGNATED BENEFICIARY.—The
10 term ‘designated beneficiary’ means any
11 individual designated as a beneficiary by
12 the employee.

13 “(ii) ELIGIBLE DESIGNATED BENE-
14 FICIARY.—The term ‘eligible designated
15 beneficiary’ means, with respect to any em-
16 ployee, any designated beneficiary who is—

17 “(I) the surviving spouse of the
18 employee,

19 “(II) subject to clause (iii), a
20 child of the employee who has not
21 reached majority (within the meaning
22 of subparagraph (F)),

23 “(III) disabled (within the mean-
24 ing of section 72(m)(7)),

1 “(IV) a chronically ill individual
2 (within the meaning of section
3 7702B(c)(2), except that the require-
4 ments of subparagraph (A)(i) thereof
5 shall only be treated as met if there is
6 a certification that, as of such date,
7 the period of inability described in
8 such subparagraph with respect to the
9 individual is an indefinite one which is
10 reasonably expected to be lengthy in
11 nature), or

12 “(V) an individual not described
13 in any of the preceding subclauses
14 who is not more than 10 years young-
15 er than the employee.

16 “(iii) SPECIAL RULE FOR CHIL-
17 DREN.—Subject to subparagraph (F), an
18 individual described in clause (ii)(II) shall
19 cease to be an eligible designated bene-
20 ficiary as of the date the individual reaches
21 majority and any remainder of the portion
22 of the interest described in subparagraph
23 (H)(v) shall be distributed within 5 years
24 after such date.

1 “(iv) TIME FOR DETERMINATION OF
 2 ELIGIBLE DESIGNATED BENEFICIARY.—
 3 The determination of whether a designated
 4 beneficiary is an eligible designated bene-
 5 ficiary shall be made as of the date of
 6 death of the employee.”.

7 (3) CONFORMING AMENDMENTS.—

8 (A) Clause (ii) of section 401(a)(9)(B) of
 9 the Internal Revenue Code of 1986 is amended
 10 by striking “A trust” and inserting “Except as
 11 provided in subparagraph (H), a trust”.

12 (B) Section 402(c)(11)(A)(iii) of such
 13 Code is amended by striking “section
 14 401(a)(9)(B) (other than clause (iv) thereof)”
 15 and inserting “subparagraphs (B) (other than
 16 clause (iv) thereof) and (H) (other than clause
 17 (vi) thereof) of section 401(a)(9)”.

18 (4) EFFECTIVE DATES.—

19 (A) IN GENERAL.—Except as provided in
 20 this paragraph and paragraphs (5) and (6), the
 21 amendments made by this subsection shall
 22 apply to distributions with respect to employees
 23 who die after December 31, 2018.

24 (B) COLLECTIVE BARGAINING EXCEP-
 25 TION.—In the case of a plan maintained pursu-

ant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this subsection shall apply to distributions with respect to employees who die in calendar years beginning after the earlier of—

(i) the later of—

(I) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof agreed to on or after the date of the enactment of this Act); or

(II) December 31, 2018; or

(ii) December 31, 2020.

For purposes of clause (i)(I), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(C) GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section

1 414(d) of the Internal Revenue Code of 1986),
 2 subparagraph (A) shall be applied by sub-
 3 stituting “December 31, 2020” for “December
 4 31, 2018”.

5 (5) EXCEPTION FOR CERTAIN EXISTING ANNU-
 6 ITY CONTRACTS.—

7 (A) IN GENERAL.—The amendments made
 8 by this subsection shall not apply to a qualified
 9 annuity which is a binding annuity contract in
 10 effect on the date of enactment of this Act and
 11 at all times thereafter.

12 (B) QUALIFIED ANNUITY.—For purposes
 13 of this paragraph, the term “qualified annuity”
 14 means, with respect to an employee, an annu-
 15 ity—

16 (i) which is a commercial annuity (as
 17 defined in section 3405(e)(6) of the Inter-
 18 nal Revenue Code of 1986);

19 (ii) under which the annuity payments
 20 are made over the life of the employee or
 21 over the joint lives of such employee and a
 22 designated beneficiary (or over a period
 23 not extending beyond the life expectancy of
 24 such employee or the joint life expectancy
 25 of such employee and a designated bene-

1 ficiary) in accordance with the regulations
 2 described in section 401(a)(9)(A)(ii) of
 3 such Code (as in effect before such amend-
 4 ments) and which meets the other require-
 5 ments of section 401(a)(9) of such Code
 6 (as so in effect) with respect to such pay-
 7 ments; and

8 (iii) with respect to which—

9 (I) annuity payments to the em-
 10 ployee have begun before the date of
 11 enactment of this Act, and the em-
 12 ployee has made an irrevocable elec-
 13 tion before such date as to the method
 14 and amount of the annuity payments
 15 to the employee or any designated
 16 beneficiaries; or

17 (II) if subclause (I) does not
 18 apply, the employee has made an ir-
 19 revocable election before the date of
 20 enactment of this Act as to the meth-
 21 od and amount of the annuity pay-
 22 ments to the employee or any des-
 23 ignated beneficiaries.

24 (6) EXCEPTION FOR CERTAIN BENE-

25 FICIARIES.—

1 (A) IN GENERAL.—If an employee dies be-
 2 fore the effective date, then, in applying the
 3 amendments made by this subsection to such
 4 employee’s designated beneficiary who dies after
 5 such date—

6 (i) such amendments shall apply to
 7 any beneficiary of such designated bene-
 8 ficiary; and

9 (ii) the designated beneficiary shall be
 10 treated as an eligible designated bene-
 11 ficiary for purposes of applying section
 12 401(a)(9)(H)(iv) of the Internal Revenue
 13 Code of 1986 (as in effect after such
 14 amendments).

15 (B) EFFECTIVE DATE.—For purposes of
 16 this paragraph, the term “effective date” means
 17 the first day of the first calendar year to which
 18 the amendments made by this subsection apply
 19 to a plan with respect to employees dying on or
 20 after such date.

21 (b) PROVISIONS RELATING TO PLAN AMEND-
 22 MENTS.—

23 (1) IN GENERAL.—If this subsection applies to
 24 any plan amendment—

(A) such plan shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(B)(i); and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or which is made—

(i) pursuant to any amendment made by this section or pursuant to any regulation issued by the Secretary of the Treasury under this section or such amendments; and

(ii) on or before the last day of the first plan year beginning after December 31, 2020, or such later date as the Secretary of the Treasury may prescribe.

1 In the case of a governmental or collectively
2 bargained plan to which subparagraph (B) or
3 (C) of subsection (a)(4) applies, clause (ii) shall
4 be applied by substituting the date which is 2
5 years after the date otherwise applied under
6 such clause.

7 (B) CONDITIONS.—This subsection shall
8 not apply to any amendment unless—

9 (i) during the period—

10 (I) beginning on the date the leg-
11 islative or regulatory amendment de-
12 scribed in paragraph (1)(A) takes ef-
13 fect (or in the case of a plan amend-
14 ment not required by such legislative
15 or regulatory amendment, the effec-
16 tive date specified by the plan); and

17 (II) ending on the date described
18 in subparagraph (A)(ii) (or, if earlier,
19 the date the plan amendment is
20 adopted),

21 the plan is operated as if such plan amend-
22 ment were in effect; and

23 (ii) such plan amendment applies
24 retroactively for such period.

1 **SEC. 502. INCREASE IN PENALTY FOR FAILURE TO FILE.**

2 (a) IN GENERAL.—The second sentence of subsection
3 (a) of section 6651 of the Internal Revenue Code of 1986
4 is amended by striking “\$205” and inserting “\$400”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to returns the due date for which
7 (including extensions) is after December 31, 2018.

8 **SEC. 503. INCREASED PENALTIES FOR FAILURE TO FILE**
9 **RETIREMENT PLAN RETURNS.**

10 (a) IN GENERAL.—Subsection (e) of section 6652 of
11 the Internal Revenue Code of 1986 is amended—

12 (1) by striking “\$25” and inserting “\$100”;

13 and

14 (2) by striking “\$15,000” and inserting
15 “\$50,000”.

16 (b) ANNUAL REGISTRATION STATEMENT AND NOTI-
17 FICATION OF CHANGES.—Subsection (d) of section 6652
18 of the Internal Revenue Code of 1986 is amended—

19 (1) by striking “\$1” both places it appears in
20 paragraphs (1) and (2) and inserting “\$2”;

21 (2) by striking “\$5,000” in paragraph (1) and
22 inserting “\$10,000”; and

23 (3) by striking “\$1,000” in paragraph (2) and
24 inserting “\$5,000”.

1 (c) FAILURE TO PROVIDE NOTICE.—Subsection (h)
2 of section 6652 of the Internal Revenue Code of 1986 is
3 amended—

4 (1) by striking “\$10” and inserting “\$100”;
5 and

6 (2) by striking “\$5,000” and inserting
7 “\$50,000”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to returns, statements, and notifi-
10 cations required to be filed, and notices required to be pro-
11 vided, after December 31, 2018.

12 **SEC. 504. INCREASE INFORMATION SHARING TO ADMIN-**
13 **ISTER EXCISE TAXES.**

14 (a) IN GENERAL.—Section 6103(o) of the Internal
15 Revenue Code of 1986 is amended by adding at the end
16 the following new paragraph:

17 “(3) TAXES IMPOSED BY SECTION 4481.—Re-
18 turns and return information with respect to taxes
19 imposed by section 4481 shall be open to inspection
20 by or disclosure to officers and employees of United
21 States Customs and Border Protection of the De-
22 partment of Homeland Security whose official duties
23 require such inspection or disclosure for purposes of
24 administering such section.”.

1 (b) CONFORMING AMENDMENTS.—Paragraph (4) of
 2 section 6103(p) of the Internal Revenue Code of 1986 is
 3 amended by striking “or (o)(1)(A)” each place it appears
 4 and inserting “, (o)(1)(A), or (o)(3)”.

5 **SEC. 505. PENSION VARIABLE RATE PREMIUM PAYMENT**
 6 **ACCELERATION.**

7 Notwithstanding section 4007(a) of the Employee
 8 Retirement Income Security Act of 1974 (29 U.S.C.
 9 1307(a)) and section 4007.11 of title 29, Code of Federal
 10 Regulations, any additional premium determined under
 11 subparagraph (E) of section 4006(a)(3) of such Act (29
 12 U.S.C. 1306(a)(3)) the due date for which is (but for this
 13 section) after September 30, 2027, and before June 1,
 14 2028, shall be due not later than September 30, 2027.

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